Putah Creek Floodplain Restoration and Percolation Dam Removal

Winters Putah Creek Park- Phase 1

Funded by the California Resources Agency River Parkway Program, 2005

Prepared for:

Solano County Water Agency, Lower Putah Creek Coordinating Committee, and City of Winters

SOLANO WATER
BE GREEN, SAVE BLUE

LPCCC
LOWER PUTAH CREEK COORDINATING COMMITTEE

CITY OF WINTERS CALIFORNIA

Prepared by:

Wallace Kuhl & Associates Inc

SOLANO COUNTY WATER AGENCY

June 16, 2009

Addendum No. 1

Winters Putah Creek Dam Demolition and Floodplain Project:

Dewatering

Dewatering is not prohibited, but has specific legal restrictions and additional permitting costs that must be borne by the Contractor. Contractor is reminded that in-stream work is inherently dangerous and flow levels can change significantly without warning due to local precipitation or dam releases.

No *additional* permanent or temporary fills beyond than those described in the NWP-27 are allowed under the US Army Corps of Engineers (USACE) Permit. This could preclude the use of coffer dams (depending on the footprint of the cofferdam), but does allow sheet pile or porta-dams style structures.

If sheet pile or other similar structures are used (or if the cofferdam meets the USACE Permit requirements), the Contractor will need to secure authorization from the Central Valley Regional Water Quality Control Board for an amendment to the existing 401 Water Quality Certification, and receive concurrence from the California Department of Fish and Game. The agency fees, costs to Consult with the agencies, develop dewatering and sampling plans, fish rescue plans and activities, and permitting oversight are not included in the bid, and are the *sole responsibility of the Contractor*.

Contractor may request that the Agency complete the permitting modifications and complete the necessary environmental activities in support of dewatering. The Agency will provide an estimate of those costs and deduct those costs from the total bid. As the Contractor has control of timing and elements within the project activity sequencing, the estimate is not the final cost, and the final cost will be arrived at using a time and materials breakdown by task.

Expected Flows

The Agency releases water to Lower Putah Creek (LPC) from Putah Diversion Dam (PDD) to maintain regulated compliance flows at Interstate 80 (I-80). The Putah Creek Accord requires a minimum release from the Dam to achieve a minimum flow level at the I-80 crossing of the Creek. The required minimum releases from PDD to LPC during the months of August, September, and October are 34, 20, and 20 cubic feet per second (cfs) respectively. The minimum flows required at I-80 for compliance during that same period are 10, 5, and 5 cfs, respectively. There are stream losses between PDD and I-80 that can require the release of additional water (over the minimum) from PDD to insure compliance.

P.O. Box 349, Elmira, California 95625
(707) 451-6090, FAX (707) 451-6099

The Work site is located approximately 5 miles downstream from the PDD. The probable flows in LPC at the Work site will likely be near the minimum released from PDD. The stream loses between PDD and Interstate 505 typically range between -10 to -15 cfs, but beware that the Agency may be required to increase releases on short notice during the performance of this Project. Additional increases are typically on the order of +5 to +10 CFS and the Agency will attempt to provide a 24-hour notice of flow changes.

The Agency reports real-time flow measurements at several points along LPC. This data can be found at: http://www.grabdata.com/solano_putahcreek.htm

Thomas L. Pate, PE
Supervising Water Resources Engineer

L8f.Addendum1

SOLANO COUNTY WATER AGENCY

June 29, 2009

Addendum No. 2

Winters Putah Creek Dam Demolition and Floodplain Project:

Dam Removal Quantity Clarification

The Notice to Bidders lists the overall dimension of the Dam as 160 LF, which includes the south tower (abutment). This is just general information. Successful completion of the dam removal, in the horizontal dimension will be 150 LF measured from the face of the south abutment where the horizontal deck meets, at the apex. A minimum of 120 LF horizontal must be removed to qualify for ANY payment of Item D.12. 150 LF must be removed to get full payment of D.12 and anything in between 120 to 150 will be prorated as specified. For the purposes of bidding, please use 150 LF as the quantity in the bid schedule for Item D.13 rather than 123 LF as written. The revised document is available on the website.

Thomas L. Pate, PE
Supervising Water Resources Engineer

L8f.Addendum1

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SOLANO COUNTY WATER AGENCY

June 30, 2009

Addendum No. 3

Winters Putah Creek Dam Demolition and Floodplain Project:

Clarification of Insurance Requirements

The following exceptions to the Insurance Requirements will be allowed:

Section 1.5.1: We will allow the general liability insurance coverage to continue for at least two years beyond the completion of the Work rather than ten years as initially specified.

Section 1.5.3.A: We will allow the omission of subcontractors, engineers, design professional. The Agency, and its directors, officers, employees, and authorized agents and volunteers MUST BE INCLUDED though.

Section 1.5.3.A: We will allow the combination of liability insurance endorsements CG 20 33 10 01 AND CG 20 37 10 01 in lieu of endorsement CG 20 10 1185.

Section 1.5.3.F: We will allow 10 days notice rather than 3 days.

Thomas L. Pate, PE
Supervising Water Resources Engineer

L8f.Addendum3

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SOLANO WATER
WASTE NOT • WANT NOT

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NOTICE TO BIDDERS

SOLANO COUNTY WATER AGENCY
6040 Vaca Station Road, Bldg. 84
Elmira, California 95625

Sealed bids will be received at the office of the Solano County Water Agency, 6040 Vaca Station Road, Bldg. 84, Elmira, California 95625 no later than 10:00 a.m. on July 1, 2009 for the following work:

SOLANO COUNTY WATER AGENCY – PUTAH CREEK FLOODPLAIN RESTORATION AND PERCOLATION DAM REMOVAL; Winters, California

The Project site is located off of the Johnson Road exit of I-505, on City of Winters property, with access from South Putah Creek Road, approximately 1/3 of a mile from downtown Winters. The work includes: the rehabilitation of an existing haul road leading to Putah Creek Flats from South Putah Creek Road; demolition and removal of a 1930's reinforced concrete percolation dam (approximately 160 feet long bank to bank x 15 feet high by 14 feet wide at the water surface, Please note: *no construction details are available and true dimensions are unknown);* the potential establishment of a low floodplain terrace using a engineered retaining structure, used as needed for a temporary haul road for removal of dam debris; staging, hauling, placing, and compacting native soil and concrete rubble materials; and, re-grading to meet natural contours. The Project will require over-water work, and contractors with experience in environmentally sensitive areas.

The Contract Documents, which include Specifications and Contract Drawings, may be obtained from the internet at http://www.scwa2.com/ConstBids_PercDam.aspx by noon on Friday, June 12, 2009. Contract Documents will only be available in electronic form. Any

problems or errors in downloading the documents should be reported to the Agency immediately.

The bidder is responsible for notifying Mandi Ladd at mladd@scwa2.com or (707) 451-6090, to be placed on the plan holders list. Plan holders on this list will be notified of the issuance of any addendums. Addendums will be posted at the same internet location as the primary Contract Documents, listed above.

The Agency will hold a Job Walk at the Project location to assist the bidders. **Attendance at the job walk and completing the sign-in list is mandatory. Bids received from Contractors who did not attend the Job Showing will not be accepted. The Job Showing will begin at Winters Community Hall, located at 201 Railroad Avenue in Winters, at 10 a.m. on Monday, June 22, 2009.** A walking tour of the work site will commence from there.

Copies of the prevailing wage scale for this work are available on the internet at http://www.dir.ca.gov/DLSR/PWD.

The bids must be accompanied by a certified check or bidder's bond for ten percent (10%) of the amount of the bid and made payable to Solano County Water Agency. The certified check or bidder's bond shall be given as a guarantee that the bidder will enter into a contract, if awarded a contract, and will be declared forfeited if the bidder refuses or neglects to enter into said contract within 10 days after being requested to do so.

The successful bidder will be required to furnish a performance bond in an amount equal to one hundred percent (100%) of the contract price and a

labor and materials bond in an amount equal to fifty percent (50%) of the contract price, said bonds to be secured from a financially responsible surety company, satisfactory to the Agency, authorized to do business in the State of California.

The Contractor may substitute securities for any moneys withheld to insure performance under the contract in strict accordance with Section 22300 and 10263 of the Public Contracts Code of the State of California.

Each Proposal submitted in response to this invitation shall include the cost of all work, labor and materials to complete the Project. Each Proposal will also explain the method(s) proposed for the dam demolition, lower floodplain terrace design; the Project team and experience on similar projects; estimated tasks and schedule and three recent references from similar projects. The entire proposal shall not exceed 15 pages (excluding cover and Table of Contents). Each Proposal shall, furthermore include all materials and labor of whatever kind required in regard to providing adequate sheeting, shoring and bracing of excavations/coffer dams, as needed.

The bids will be opened in public at the above mentioned prescribed time and date. Award will be made to the lowest responsible bidder, however, the Agency reserves the right to reject any or all bids, to waive informalities in the bid, and to postpone the date of bid opening. In all respects, the successful bidder shall comply with requirements of law pertaining to public works contracts.

DBO

6/10/09

David B. Okita, General Manager
Solano County Water Agency

Date

INSTRUCTIONS TO BIDDERS

1. GENERAL.

The work hereunder must be done in strict conformity with the Drawings and Specifications adopted and approved by the Solano County Water Agency (Agency).

2. CONTRACT DOCUMENTS.

The Notice to Bidders, the Instructions to Bidders, the Proposal, the Contract, the Specifications, and the Drawings are the Documents that will form the Contract. Bidders must examine each of the Contract Documents, must visit the location of the work and inform themselves of the conditions and make their own estimates of the facilities and difficulties attending the execution of the work. **Attendance at the Agency Job Showing on Monday, June 22, 2009 is mandatory.** Proposals will not be accepted from any bidders not attending the Job Showing. The failure of any bidder to receive or examine any form, instrument, addendum or other document shall in no way relieve any bidder from any obligation with respect to his Proposal or to the Contract. The submission of a Proposal shall be taken as prima facie evidence of compliance with this section.

3. FORM AND CONTENT OF PROPOSAL.

Proposals shall be made properly upon the separate form provided therefore, a copy of which accompanies these Specifications with all items filled out in ink or typewritten; amounts shall be stated in figures and the signature of all persons signing shall be in writing. The completed form shall be without interlineations, alterations or erasures.

Proposals shall contain only the quotation for which the form is prepared. No oral, telegraphic or telephonic Proposals or modifications will be considered. Proposals shall be accompanied by an unconditional check certified by a responsible bank in an amount not less than ten percent (10%) of the aggregate of the Proposal, payable to the order of the Agency, or by a bidder's bond for the said amount and so payable, written by a financially responsible surety company, satisfactory to the Agency, authorized to do business in the State of California. The check or bond shall be a guarantee that the bidder, if awarded the work, will enter into a Contract within ten (10) calendar days after receiving the Notice to Award. In case of refusal or failure to enter into the Contract and/or to file acceptable bonds and proof of insurance as provided herein within the time set forth herein, the award made by the Agency shall be annulled and the check or bond, as the case may be, shall be forfeited to the Agency, the proceeds there from being hereby agreed upon as liquidated damages to the Agency on account of the delay in the execution of the Contract and required bonds and the performance of the work there under, and the necessity of accepting a higher or less desirable Proposal resulting from such failure or refusal to execute the Contract and bonds as required. Upon the execution of the Contract and the approval on behalf of the Agency of the accompanying bonds, all certified checks that accompanied Proposals and that have not theretofore been returned, will be returned each to its maker.

4. INTERPRETATION OF CONTRACT DOCUMENTS.

Should a bidder find discrepancies in, or omissions from, the Contract Documents, or should he/she be in doubt as to their meaning, he/she

shall at once notify the Engineer; and should it be found that the point in question is not clearly and fully set forth, a written Addendum or Bulletin of Instructions will be made available to all bidders, notification will be provided to bidders on the plan holders list and posted on the Agency's website at www.scwa2.com. The Engineer or the Agency will not be responsible for any oral instructions.

5. OPENING AND COMPARISTON OF BIDS.

Proposals will be opened and read at the time and date indicated in the Notice to Bidders at the office of the Solano County Water Agency, 6040 Vaca Station Road, Bldg. 84, Elmira, California 95625. Bidders or their representatives and other interested parties may be present at said opening and reading. The award will be made to the lowest responsible bidder complying with these Contract documents.

The bids will be compared on the basis of sums of the extensions of the unit prices and lump sum prices bid for doing the specified work and by the Agency consideration of the Contractor's responsibility, financial resources, and ability to execute the work. The Agency may request a bidder to furnish evidence that he has successfully performed similar work.

The Agency, at its discretion, reserves the right to reject any or all Proposals. Without limiting the generality of the foregoing, any Proposal which is incomplete, obscure, irregular or deemed by the Agency to be non-responsive may be rejected; any Proposal having erasures or corrections in the price sheet may be rejected; any Proposal in which unit prices are omitted, may be rejected; if in the judgment of the Agency unit prices are unbalanced, or if the bidder is

not responsible, it shall be considered sufficient grounds for rejection of the proposal.

6. ACCEPTANCE OF PROPOSALS AND ITS EFFECT.

The Agency will, within thirty (30) days subsequent to the opening of the bids, act upon the Proposals. The acceptance of the Proposal will be by the Notice of Award in writing signed by a duly authorized representative of the Agency, and no other act of the Agency shall constitute the acceptance of a Proposal. The acceptance of a Proposal shall bind the successful bidder to execute the Contract Agreement with the Agency in the form attached hereto and obtain insurance and faithful performance and labor and material bonds of the types and character and in the amounts required in the Contract Documents, within ten (10) calendar days after receiving the Notice of Award, and to be responsible for liquidated damages as provided in Paragraph 3 herein. Failure by Contractor to meet and provide valid insurance and bonding instruments is a breach and authorizes Agency to select a replacement Contractor, at the Agencies' discretion. The rights and obligations provided for in the Contract shall become effective and binding upon the parties only with its formal execution by the Agency and the Contractor.

7. TIME FOR BEGINNING AND COMPLETING THE WORK.

The Contractor shall commence the work within ten (10) calendar days after the date of the Notice to Proceed given to him by the Agency to commence work, and he shall complete all work within seventy-five (75) calendar days after the date of the Notice to Proceed. All ground disturbing work shall be completed no later than October 15, 2009. If the Agency determines a need to stop work, it

will issue notification in writing to the contractor's stated address, and the contractor will immediately stop work.

8. BONDS.

A bidder to whom the Contract is awarded shall, within the time stated in Paragraph 6, furnish a surety bond conditioned upon the full and faithful performance and verity of all warranties and guarantees therein contained. Said bond shall be in an amount not less than one hundred percent (100%) of the Contract amount.

Also within the time mentioned above, a bidder to whom the Contract is awarded shall furnish a surety bond for materials and labor in an amount not less than fifty percent (50%) of the Contract amount.

Said bonds shall meet all of the applicable provisions of the law and regulations of the State of California, and shall be furnished in the attached forms and shall be obtained from a financially responsible surety company, satisfactory to the Agency, authorized to do business in the State of California, which maintains in said State at least one office for the conduct of its business. Said surety (or sureties) shall furnish reports as to its financial conditions from time to time as requested by the Agency. The premiums for said bonds shall be paid by the bidder. If the Contractor fails to furnish such additional security, the Agency, at its sole option, may obtain the additional security in an amount equal to the value of the work remaining to be done under the contract, as deemed by the Agency, and recover the cost of such additional security from the Contractor. Agency is under no obligation to do so. Failure to do so will in no way create liability on the part of Agency, nor will it relieve the Contractor of any liability.

In accordance with Section 995.660 of the Code of Civil Procedure, the surety company shall also submit to the Agency the following:

A. The original, or a certified copy, of the unrevoked appointment, power of attorney, bylaws, or other instrument which entitles and authorizes the person to execute the bond to do so. These documents must be provided within 10 calendar days of demand upon the insurer and are usually, routinely, included with the bond.
B. A certified copy of the certificate of authority of the insurer issued by the Insurance Commissioner of the State of California. This also must be provided within 10 calendar days.
C. A certificate from the clerk of the county in which the Agency is located which would state that the certificate of authority of the insurer (the bonding company) has not been surrendered, revoked, canceled, annulled, or suspended.
D. Copies of the insurer's most recent annual statement and a quarterly statement filed with the Department of Insurance. This statement should indicate that the net worth of the insurer is greater than the amount of the bond

If any surety becomes unacceptable to the Agency or fails to furnish reports as to its financial condition as requested by the Agency, the Contractor shall promptly furnish such additional security as may be required from time to time to protect the interests of the Agency and of persons supplying labor or materials in the prosecution of work contemplated by this Contract. Failure to provide any of the bonds required by these contract documents is a material breach by the

Contractor giving rise to a right of termination on the part of the Agency.

In the event of any conflict between the terms of the Contract and the terms of said bonds, the terms of the Contract shall control and said bonds shall be deemed to be amended thereby. Without limiting the foregoing, the Agency shall be entitled to exercise all rights granted to it by the Contract in the event of default, without control thereof by the surety, provided that the Agency gives the surety notice of such default at the time or before the exercise of any such right by the Agency, and, regardless of the terms of said bonds, the exercise of any such right by the Agency shall in no manner affect the liability of the surety under said bonds.

9. PRICES.

The prices set forth in the Proposal are to include the furnishing of all materials, plants, equipment, tools, and all other facilities, and the performance of all labor and services necessary or proper for the completion of the work, except such as may be otherwise expressly provided in the Contract Documents.

10. WITHDRAWAL OF PROPOSAL.

Proposals may be withdrawn by the bidder prior to, but not after, the time fixed for the opening of the Proposals.

11. ADDENDA OR BULLETINS OF INSTRUCTIONS.

An addenda or Bulletins of Instruction supplementing the Contract Documents and issued prior to the time set for the opening of Proposals shall form a part of the documents furnished the bidder for the preparation of his Proposal. These documents shall be made a

part of the Contract. Bidders on the plan holders' list will be notified of the issuance of addenda or Bulletins of Instruction supplementing the Contract Documents. Addenda or Bulletins of Instruction shall be posted on the Solano County Water Agency's website at http://www.scwa2.com/ConstBids_PercDam.aspx along with the primary documents. All bidders are responsible for notifying Mandi Ladd at mladd@scwa2.com or (707) 451-6090, to be placed on the plan holders' list.

PROPOSAL

(With Bid Schedule Attached)

Proposal of K.O. UNDERGROUND CONSTRUCTION, INC.

Contractor

102 WOLFSKILL STREET WINTERS CA 95694

Address

To furnish and deliver all materials and to do and perform all work in accordance with the Contract Documents for the Putah Creek Floodplain Restoration and Percolation Dam Removal for the Solano County Water Agency (Agency). The Project site is located off of the Johnson Road exit of I-505, on City of Winters property, with access from South Putah Creek Road, approximately 1/3 of a mile southeast of downtown Winters.

To: Solano County Water Agency
6040 Vaca Station Road, Bldg. 84
P.O. Box 349
Elmira, CA 95625-0349

Gentlemen:

The undersigned bidder has carefully examined the Contract Documents and Drawings, and also the site of the work, and hereby proposes to furnish all necessary labor, machinery, tools, apparatus, and other means of construction and do all the work and furnish all materials called for by the Contract Documents in the manner and time prescribed therein and in accordance with the requirements of the Contract Administrator under them.

The undersigned hereby declares that the only persons or parties interested in this Proposal as principals are those named herein; that no director or officer of the Agency is in any manner interested, directly or indirectly, in this Proposal or in the profits to be derived from the Contract

proposed to be taken; that this bid is made without any connection with any other person or persons making a bid for the same purpose; that the bid is in all respects fair and without collusion or fraud.

The undersigned bidder understands that the quantities of work as shown herein are approximate only and are subject to increase or decrease, and offers to do the work whether the quantities are increased or decreased, at the prices stated in the attached Schedule. The undersigned has checked carefully all figures inserted in said Bid Schedule and understands that the Agency will not be responsible for any errors or omissions on the part of the undersigned in making up this Proposal.

The undersigned also agrees to: Do any extra work, not covered by the above schedule of prices, which may be ordered by the Agency, and to accept as full compensation therefore such prices as may be agreed upon in writing by the Agency and the Contractor in accordance with the Contract Documents or, in the absence of such agreement, to perform the work and resolve the payments as provided in Section 1 of the General Conditions.

The undersigned hereby agrees to execute the Agreement and furnish the required bonds and insurance within ten (10) days after receiving the Notice of Award of his Proposal. A certified or cashier's check or a bidder's bond made payable to the Solano County Water Agency in the amount of ten percent (10%) of the amount of the Proposal is attached hereto as a guarantee that the undersigned will so perform. If a bidder to whom an award is made, fails or refuses for any reason to execute the Contract or fails to furnish any or all of the required insurance or contract bonds, all within the time stated in the Instruction to Bidders and General Conditions, it is agreed and stipulated between the Agency and the bidder to whom the award is made, that damages will be sustained by the Agency and it is currently contemplated by the parties and estimated by the parties that it will be impracticable and extremely difficult to fully ascertain and determine

the actual damage which the owner will sustain by such delay. The Agency and all parties who submit a bid under the notice of invitation to bid, shall be deemed to have jointly studied and attempted to estimate the damages suffered by the Agency by such delay under these circumstances and to agree and stipulate that the amount of the bidder's bond, cash or check specified, is agreed to as liquidated damages which shall be payable by such bidder and shall be collected and held by owner thereafter as the sole property of the Agency and for full compensation for the damages suffered by the Agency as a result of delay and all other damages suffered by the Agency.

The bidder further declares that the surety or sureties named in the spaces following have agreed to furnish bonds in the form and aggregate amounts set forth in the Instructions to Bidders, in the event the Contract is awarded on the basis of this Proposal.

The bidder further declares that he is a licensed contractor under the laws of the State of California.

Surety or Sureties:

MERCHANTS BONDING COMPANY (MUTUAL)

Dated JUNE 29, 2009

K.O. Underground Construction Inc.
Bidder

Bidder's place of business:

102 WOLFSKILL ST
WINTERS CA 95694

By: _____

(Seal if bidder is a Corporation)

Contractor License No. 744574

Classification A C61/D34

Name and address of all members of the firm or names and titles of all officers.

Joseph E. Ogando President

Karen Ogando Secretary/Treasurer

Jonathan Cole Ogando Vice President

Joseph D Ogando Vice President

The bidder shall herein set forth the name and the location of the place of business of each subcontractor, who will perform work or labor or render service to the general contractor in or about the construction of the work or improvement in an amount in excess of one-half (1/2) of one percent (1%) of the general contractor's total bid, and the portion of the work which will be done by each subcontractor.

Name of Subcontractor	Location of Place of Business	Portion of Work to be Done
4M Contracting	Winters, Ca	Demo/Grading
S&C Tree Service	Burlingame, Ca	De-Vegetation/Protection
Waterstructures Unlimited	Carlotta, CA	Aquadam IA
Rain for Rent	Woodland Ca	Dewatering IA

NON-COLLUSION AFFIDAVIT TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID

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

Signature of Bidder

6/30/09
Date

CONTRACTOR: K.O. Underground Construction Inc.

SCHEDULE

Putah Creek Floodplain Restoration and Percolation Dam Removal

This proposal shall be completed by the bidder, with the unit prices written in numerals, and the extensions shall be made by him. Stipulations will not be considered. The Contractor will provide a complete Schedule of Values for each of these units and all engineered elements.

Item	Description	Amount	Units	Unit Price	Item Total
A.	**Mobilization**				
1	Prepare/Grade Access Roads	1	LS		$1,200.00
2	Furnish and Install (F&I) 3 Culverts	1	LS		$1,000.00
3	Prepare Staging Area/Protect Elderberry Shrubs/Clear & Grub	1	LS		$29,000.00
4	F&I Traffic Control Measures	1	LS		$2,000.00
A.	**Mobilization Sub-Total**				$33,200.00
B.	**Erosion Control**				
5	F&I Silt Fence	175	LF	$3.00	$525.00
6	F&I Gravel Bag Barrier	40	EA	$10.00	$400.00
7	F&I Construction Entrance	1	LS		$500.00
8	F&I Fiber Roll	120	LF	$1.50	$180.00
B.	**Erosion Control Sub-Total**				$1,605.00

CONTRACTOR: K.O. Underground Construction Inc.

SCHEDULE (Cont.)

Putah Creek Floodplain Restoration and Percolation Dam Removal

Item	Description	Amount	Units	Unit Price	Item Total
C.	**Lower Floodplain Terrace/Dam Access**				
9	F&I and in-fill Gabion Baskets or equivalent	240	LF	NA	NA
10	Place & Compact embankment back-fill material	1	LS		NA
11	(NOT USED)				
C.	**Lower Floodplain Terrace/Dam Access Sub-Total**				NA
D.	**Dam Demolition**				
12	Demolish Dam	1	LS		$160,000.00
13	Haul, process Concrete Material and refuse disposal	**150**	LF	$720.00	108,000.00
14	Provide Clean face of any remnant Dam	200	SF	10.00	$2,000.00
D.	**Dam Demolition Sub-Total**				270,000.00
E.	Final Grading				
15	On-site Placement of Recycled Dam Material	1	LS		NA
16	Place Final Soil Fill Cap Layer	1	LS		NA
E.	**Final Grading Sub-Total**				NA

CONTRACTOR: K.O. Underground Construction Inc.

SCHEDULE (Cont.)

Putah Creek Floodplain Restoration and Percolation Dam Removal

Item	Description	Amount	Units	Unit Price	Item Total
F.	**De-mobilization**				
17	Remove Silt Fence	175	LF	$ 2.00	$ 350.00
18	Remove Gravel Bag Barrier	40	EA	$ 5.00	$ 200.00
19	Restore Worksite & Staging Area	1	LS		$ 4,000.00
F.	**De-mobilization Sub-Total**				$ 4,550.00
G.	**Water Quality (WQ) Contingency**				
20	F&I: In-stream BMP I. (Silt curtain)	1	LS		$ 5,000.00
~~21~~	F&I: In-stream BMP II. (Weir silt curtain)	1	LS		$ 1,500.00
21	Remove and restore In-stream BMP I. (Silt curtain)	1	LS		$ 1,500.00
~~22~~	Remove and restore In-stream BMP II. (Weir silt curtain)	1	LS		$ 1,500.00
G.	**WQ Contingency Sub-Total**				$ 9,500.00

CONTRACTOR: K.O. Underground Construction Inc.

SCHEDULE (Cont.)

Putah Creek Floodplain Restoration and Percolation Dam Removal

	Cost Summary (Base Bid)	Sub-Totals
A.	Mobilization	$33,200.00
B.	Erosion Control	$1,605.00
C.	Dam Access	NA
D.	Dam Demolition	270,000.00
E.	Final Grading	NA
F.	De-mobilization	$4,550.00
G.	WQ Contingency	9,500.00

Project Grand Total Estimated Work Cost: $318,855.00

INFORMATION REQUIRED OF BIDDER

The Contractor shall provide a brief, clear, and concise prospectus, along with the submitted Bid Proposal, that outlines the intended methodology to satisfactorily complete the Project, as intended in the spirit implied by these Contract Documents that the bid price is based upon. The prospectus shall include, but not limited to, a description of the means by which contractor intends to get equipment access to the dam and types of equipment anticipated to implement work, a description and typical cross-section drawing depicting the intended width and height of the low terrace embankment to be constructed if applicable, and limits of associated layers of material within it, and an explanation of demolition and disposal methodology to be utilized and evidence of experience with proposed techniques. The description and schematic of the low terrace embankment shall also describe the proposed methodology to support the embankment.

The proposed Project will be constructed within an environmentally sensitive wetland area within the existing Putah Creek Channel. The Contractor shall have previous experience working on projects of similar scope, breadth, and magnitude. The Contractor shall provide a project description and a minimum of three (3) references on similar or comparable work projects, which they have completed during the last two (2) years.

References for Contractor:

K.O. Underground Construction Inc.

1. Project:
NVCH Recycling Enclosure Demo: Project consisted of demolishing and recycling Approximately 247 Tons of Concrete/asphalt CMU and cinder walls at four locations in Napa. Job was finished under time and under budget.

General contractor for all owners was Sunseri Construction, Chico Ca

Owner:

Contact: Dwight Thompson - Sunseri Construction

Phone No. 858.342.7329

2. Project:
Hidden Hills Subdivision: Project consisted of $600,000.00 of utility work infrastructure for a 72 lot subdivision with relevant work being the utility work performed by K.O. on the underside of two car bridges directly over a live stream without getting in flow.

Owner: O'brien Homes

Contact: Butch Moses- O'brien Homes

Phone No. 1.650.222.1446

3. Project:

Bellevue Subdivision: Project consisting of utility work for Subdivision in the vicinity of known California tiger Salamander habitat. Entire crew was trained on special precautions by biologist and plan carried out without incident.

Owner: Ryder Homes

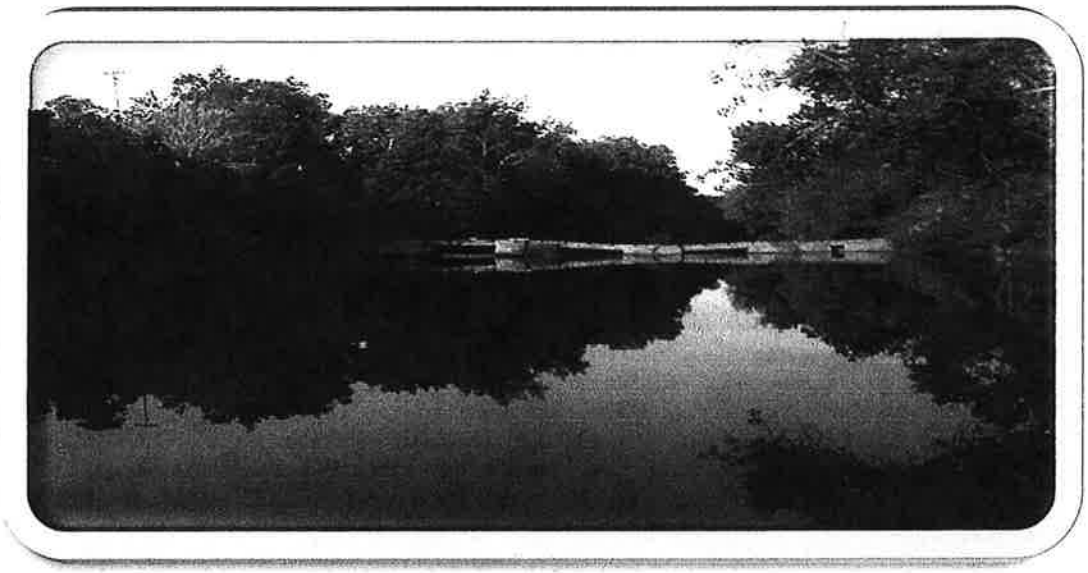
Contact: John Allen (previously employed by Ryder now Inspector)

Phone No. 1.415.987.2779

PROSPECTUS

Putah Creek Percolation Dam Removal

We have prepared this proposal with the intention to provide the most cost effective and environmentally responsible solution to achieve the primary goal of removing the defunct percolation dam. Through creative thinking and collaboration with the most qualified sub-contractors in their respective trades, we have determined a course of action that we expect to meet or exceed the desired results set forth by the governing agency.



The primary goal as stated by the SCWA, is the complete removal of the percolation dam to the extents as described in section 4. This project is exciting and distinctive due to the unknown structural nature of the dam, the difficult access due to water and bank terrain, and the challenges posed by the environmentally sensitive areas. In order for this proposal for the planned project to be a success, we first had to identify the following issues and potential challenges.

- Addressing stated and potential environmental concerns
- Possible destabilization of south bank
- Equipment access to dam
- disposal of concrete and related debris
- Site Security

Secondly, we had to derive solutions for each obstacle while maintaining an acceptable level of environmental responsibility and remaining within pre-set budget constraints. This project is especially important to us, as we enjoy seeing our local community continually improve. The successful completion of this project will help ensure that further planned work

such as; reestablishing a more natural floodplain, expanding and improving the existing nature park, and re-constituting a more natural environment for native species, can be achieved.

Methodology

We explored many options while deciding which way to approach this unique project, one of which was the gabion wall as proposed. We found that, while this is a well engineered and possible approach to this project, for the dynamics of our company, a different solution would better suit us. The possibility of destabilizing the southern bank and existing rip rap and its effect on Putah Creek road is a risk best mitigated. Being that all of the officers of our corporation either had lived or still live a 1/2 mile upstream from the proposed work site, and had spent countless hours in this exact vicinity, we instead looked to our extensive combined knowledge of the creek bed itself, the relevant land owners and the existing access that may have been overlooked. We have negotiated exclusive access from the landowner (see attached letter dated 6.29.09) who shares the property line with the City of Winters near the car and train bridge who have also consented right of entry to any successful bidder. (see attached letter dated 6.29.09)

There is an existing road in the general vicinity of the red line shown in Figure 1 below. Although this is blocked by some vegetation when you near the percolation dam, it can be utilized with relatively the same vegetative removal than as if you were to proceed with accessing from Putah Creek flats.

Fig. 1

We have made numerous trips down this road on foot and have taken measurements to determine the feasibility of this route. No Elderberry bushes were found along the direct path and any determined to be near will be protected as outlined. Much of the vegetative blockage is represented by invasive species such as bamboo and blackberry (see fig 2) which will be removed to both provide access and benefit native species.

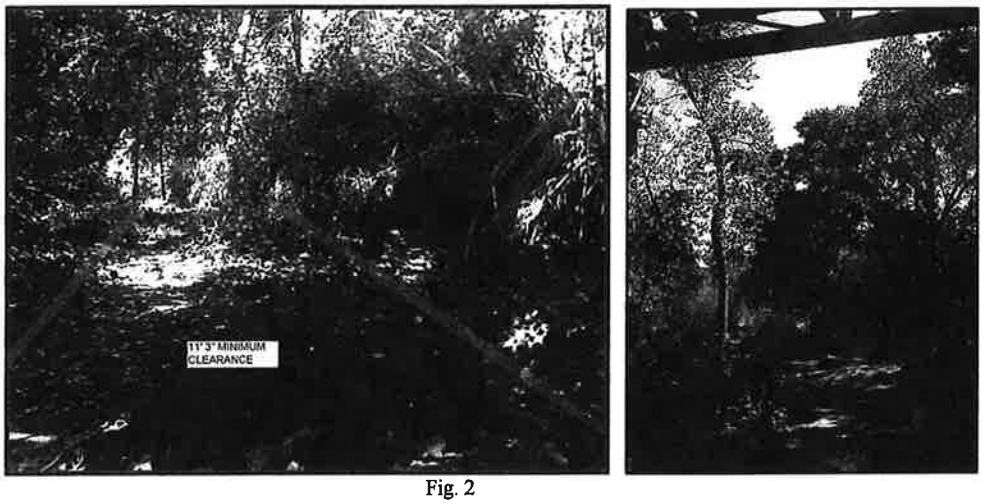


Fig. 2

With the help of our sub-contractor S&C Tree service (who have extensive experience in this particular creek) we will determine the best possible actions when determining removal of any vegetation. After a preliminary plan is achieved, we will look to work with the approval of the stream keeper, and finalize exact removals of any vegetation.

Once we achieve access to the dam itself, we will begin on the north side of the dam. We plan to remove a section of the dam itself at the edge of the bank to relieve the small amount of water that the dam is holding back. This work will be performed with a mini excavator equipped with a hydraulic hammer. This excavator (Cat 302.5 or equivalent) will be small enough to walk on dam surface without risk of sliding off and will assist in necessary handwork to create desired condition. See figure 3.

Fig. 3

Depending on the amount of water this step removes; determination will be made on the next step. An Aquadam may be utilized to create a temporary cofferdam upstream of the percolation dam. If the Aquadam method is deemed necessary, we may also be placing pumps to bypass existing flow with fused high density polyethylene pipe past the deep part of the pool located downstream of the percolation dam. (Rain for Rent Engineering recommends the use of two DV-300i pumps at 4033 gpm for primary pumping. additional DV-300i pump may be installed for mechanical failure redundancy, and flow fluctuation due to reservoir releases. Individual suction will be (3)

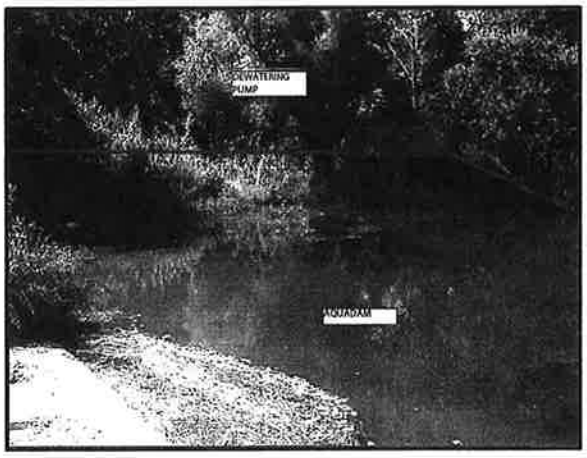


Fig. 4

12" x ~40' HDPE. Initial discharge will be 14" x ~40' hdpe sdr 17 per pump. Each discharge line will connect to an 18" flange connection on the manifold or reducing tee tied together. Each discharge should have an 18" check valve. Manifold discharge will be 24" hdpe sdr 17 pipeline and include 24" gate valve) Discussed placement is roughly illustrated in figure 4. If necessary we will then place a secondary dam upstream of the existing rock weir. This will ensure any water that is bypass pumped past the large pool below the percolation dam will not re-enter the pool. It is our intention that the pool itself will not need to be entirely de-watered, but rather drop the water level low enough to access the bottom of the dam. If Aquadams are used, we will be providing 24 hour surveillance via mobile surveillance trailers to protect the site within the limits of work. The aforementioned procedures may not be necessary after exploratory worked is performed. We thought it pertinent to include plans for what we consider to be worst case scenario while looking to use more time effective measures.

When we are ready to begin full demolition operations, a large Cat 330 excavator will be moved in after BMP I & II are executed for WQ contingency. This particular machine is 11'3" wide and will be equipped with an 8000 Lb hammer. We will start with the top section of the percolation dam, which appears to have been poured separately than the lower base. As we demolish and remove the upper part of dam, the lower wider part of the slab will be used as a means to reach the northern end of the dam in order to remove the base itself. The hammer will be used to break the dam into largest movable pieces possible which will be loaded and hauled via trucks to our local concrete recycler where it will be further processed. Refer to figure 1 for route. Recycled concrete and rebar material will be retained by K.O.

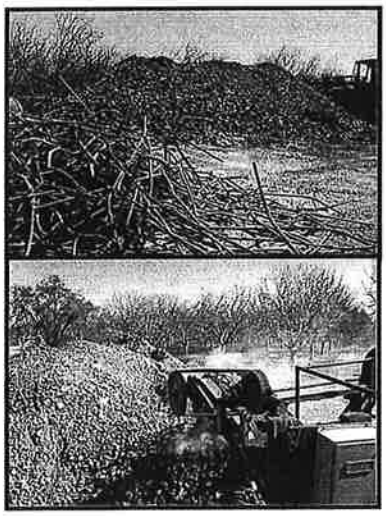
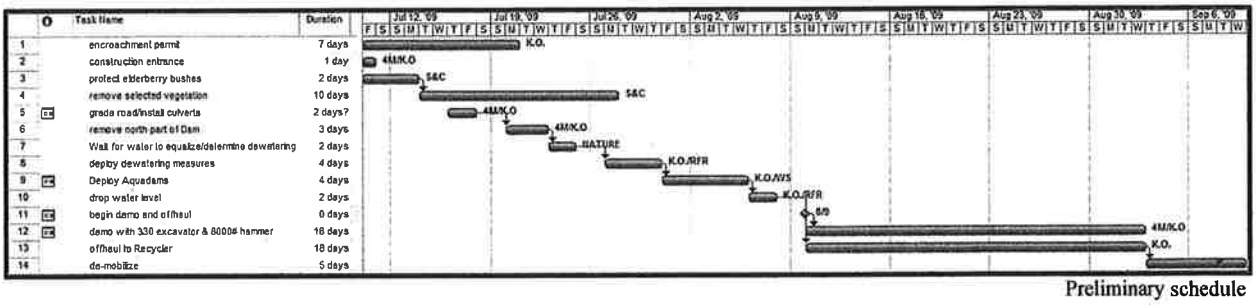


Fig 5

Demobilizing will begin after the dam is completely removed to the satisfaction of the contract documents. A preliminary schedule has been prepared to help in the conveyance of our proposed plan. This schedule is well under the time allotted by the Agency and is what we are aiming for, but does not negate the full time allowed. This schedule is subject to change with the fine tuning of proposed methodology if awarded the contract.



Preliminary schedule

K.O. Construction appreciates the opportunity to submit a proposal for this project. K.O. has recently been seeking more work in environmentally and socially sensitive areas in order to showcase the continued improvements we have made when it come to environmental stewardship. We have completed work on numerous projects in environmentally sensitive areas, including above creek work under bridges, boring under creeks for utility work and have had

crews trained for dealing with site specific endangered species such as the California tiger salamander. K.O. is also recognized as a Certified Green Building Professional company by the Build it Green organization. Our office has been equipped with a photo voltaic array to help generate our own energy, along with our onsite recycling operation, we are well on our way to leading by example. To cover any perceived shortcoming as far as actual in-stream work or vegetative expertise, we feel we have put together a great team with more than enough experience by using Monte Molina of 4M Contracting and Scott Dipman of S&C Tree Service. Recommendation letters have been attached for your reference.

STREAMWISE

Stream Assessment and Restoration

Achieving restoration goals with natural stream form, processes, and function.

101 E. Alma St. Suite 100
Mt. Shasta, CA 96067
(530) 926–6559
streamwise@sbcglobal.net
www.streamwise.com

Solano County Water Agency
PO Box 349
Elmira, Ca 95625-0349

June 16, 2009

Regarding: Recommendation - Monte Molina

Dear SCWA Board,

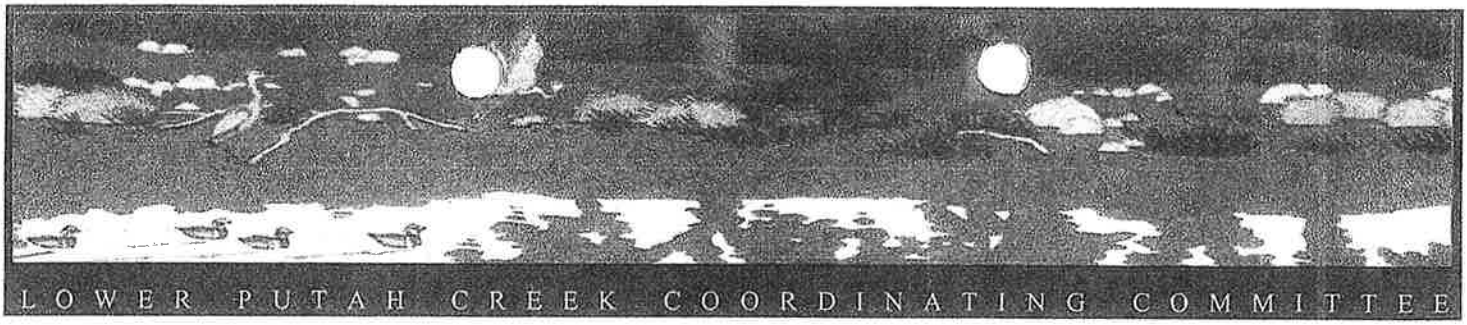
This letter serves as a reference for Monte Molina, owner of Four M Contracting, Inc.

My name is Rick Poore and I own StreamWise, a restoration consulting business based in Mt. Shasta. I have known Monte for many years and had the pleasure to work with him on several environmentally oriented projects. Because of his professionalism and competence with these projects, I felt confident in working alongside Four M Contracting to complete several stream restoration projects along Putah Creek and tributaries. Most of these were completed under the direction of Rich Marovich, LPCCC. StreamWise has also teamed with Monte and crew to complete a complex dam removal project on Whitewater Creek within Ano Nuevo State Park. This project was successfully completed in an environmentally sensitive area under difficult working conditions.

Four M Contracting is well-qualified to perform the proposed work on the percolation dam removal and will exceed expectations of the board, if selected as the prime contractor. I recommend Monte and crew without reservation.

Thank you for your consideration,

Rick Poore
StreamWise



June 13, 2005

RE: Monte Molina

To Whom It May Concern:

I am writing to express my confidence in Monte Molina as a heavy equipment operator. In my capacity as Putah Creek Streamkeeper, I have hired Mr. Molina to perform excavations, grading, drainage, vegetation clearing, construction of weirs and revetments, solid waste cleanup, fish habitat enhancement structures, rock sorting and hauling. This work involved compliance with various environmental permits including 1601 Streambed Alteration and 401 and 404 water quality permits. The work has largely been performed within the channel of Putah Creek, requiring diligence to avoid impacts on fish and wildlife and water quality. The work has consistently been done on time, within estimates and with due diligence regarding compliance with permits.

Mr. Molina has also consistently kept me informed of start and completion times, unforeseen developments, progress vs budget and job status. He has been available for on-site meetings as needed and his invoices have been submitted with appropriate detail including tracking costs by line items. He has also handled adversities with maturity and professionalism.

In summary, Mr. Molina has been a pleasure to work with and I look forward to using his services again.

Sincerely,

Rich Marovich
Streamkeeper
(530) 902-1794

P.O. Box 349 • 6040 Vaca Station Road, Building 84, Elmira, California 95625-0349 • Phone (707) 455-1100 • Fax (707) 451-6099
www.watershedportals.org/lpccc

The Lower Putah Creek Coordinating Committee consists of:
Cities of Davis, Fairfield, Suisun City, Vacaville, Vallejo and Winters; Counties of Solano and Yolo; Maine Prairie Water District;
Putah Creek Council; Solano County Water Agency; Solano Irrigation District; Putah Creek Riparion Landowners, and University of California, Davis

June 29, 2009

Four M Contracting, Inc.
Monte Molina
320 Niemann Street
Winters, CA 95694

RE: Putah Creek Access

Dear Monte,

This letter is to grant exclusive access from the Neil Property to Four M Contracting, Inc., KO Construction and S&C Tree Service to perform work necessary for the removal of the Putah Creek Dam Removal Project. This access is only granted for the time frame of this specific project.

Sincerely,

John Neil

MAYOR:
Michael Martin
MAYOR PRO TEM:
Woody Fridae
COUNCIL:
Cecilia Aguiar-Curry
Harold Anderson
Tom Stone

CITY OF WINTERS
CALIFORNIA

MAYOR EMERITUS:
J. Robert Chapman
TREASURER:
Michael Sebastian
CITY CLERK:
Nanci Mills
CITY MANAGER:
John W. Donlevy, Jr.

June 29, 2009

Cole Ogando
KO Construction, Inc.
102 Wolfskill Street
Winters, Ca 95694

RE: Right of Entry- City of Winters Putah Creek Property- Perc Dam Removal Project

Dear Cole:

As discussed in our telephone conversation, the City of Winters will be granting access to the City property along Putah Creek to the successful bidder for the percolation dam removal project currently out to bid by the Solano County Water Agency.

The conditions and limitations on the access will be subject to the receipt of the work program submitted by the contractor. The plan will need to describe key attributes, such as access ramps, avoidance of damage to vegetation in the area and a re-vegetation plan should an access road be required.

In the submittal of your bid, the City will allow access subject to the development of a workable plan.

If you have any questions, please do not hesitate to contact me at 530-795-4910 Ext. 110.

Sincerely,

John W. Donlevy, Jr.
City Manager

CONTRACT

THIS AGREEMENT, made and entered into this 9 day of JULY, 2009 by and between the Solano County Water Agency hereinafter called "Agency" and K.O. UNDERGROUND CONSTRUCTION, INC., hereafter called the "Contractor";

WITNESSETH: That the Agency and the Contractor, for the consideration hereinafter named, agree as follows:

1. This Contract is for the construction of the **PUTAH CREEK FLOODPLAIN RESTORATION AND PERCOLATION DAM REMOVAL** for the Solano County Water Agency.
2. The Contract includes all of the Contract Documents, to wit: the Notice to Bidders, the Instructions to Bidders, the accepted Proposal and Proposal Bid Schedule, this Contract Agreement, the Specifications, the Specification Drawings, and all Addenda setting forth any modifications or interpretations of any said Documents. All said Documents are hereby incorporated in and made a part of this Agreement.
3. The Contractor shall furnish all labor, materials, equipment, and other facilities and perform in a good and workmanlike manner all work under the Contract for the Agency in strict conformity with the Contract Drawings and to the approval and entire satisfaction of the Agency.
4. The Agency will pay the Contractor in current funds for the performance of the Contract the sums stated in the Proposal Bid Schedule, in the manner, at the time and upon the conditions as stated in the Contract Documents, and will otherwise fulfill its obligations as provided in the Contract. It is agreed and stipulated between the Agency and the Contractor, that damage will be sustained by the Agency from any delays in the performance of this Contract, and it is currently contemplated by the parties, and estimated by the parties, that it will be impracticable and

extremely difficult to fully ascertain and determine the actual damage which the Agency will sustain by such delays. The parties agree that they shall be deemed to have jointly studied and attempted to estimate the damages suffered by the Agency by such a delay under these circumstances and to agree and stipulate by this Contract that the sum of two thousand dollars ($2,000.00) per day for each and every day's delay beyond the time prescribed to complete the work has been agreed to by the parties as a fair estimate of the damages to be suffered by the Agency from and as direct result of such delay. The time set for the completion of this work is set forth in the Instructions to Bidders.

5. Either party to this Contract has a right to litigate to enforce this Agreement. The Court shall award reasonable costs and expenses, including attorneys' fees, to the prevailing party in any action or proceeding to enforce this Agreement.
6. All time limits stated in the Contract Documents are of the essence of this Agreement.
7. This Agreement shall be binding upon and shall inure to the benefit of the heirs, successors and assigns of the parties.

IN WITNESSWHEREOF, the parties hereto have executed this Agreement the day and year first above written

SOLANO COUNTY WATER AGENCY

By: _____

Don Holdener, B.O.D. Chair

Attest:

_____

David Okita, General Manager

K.O. Underground Construction, Inc.

Contractor

By: _____ (Title)

And: _____ (Title)

(Seal if a Corporation)

Contractor License No. 744574

Classification A C61/D-34

PREMIUM IS FOR CONTRA TERM AND IS SUBJECT TO ADJUSTMENT BASED ON FINAL CONTRACT PRICE.

Bond No. CAC71515
Premium: $5,783.00

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, THAT WE, K.O. Underground Construction, Inc. as Principal, and Merchants Bonding Company (Mutual) as Surety, are held and firmly bound unto Solano County Water Agency, hereinafter called "Agency", in the sum of Three Hundred Eighteen Thousand Eight Hundred Eighty-Five dollars for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

The condition of this Obligation is such that whereas the Principal entered into a certain Contract, hereto attached, with the Agency, dated July 9, 2009 for the construction of: **PUTAH CREEK FLOODPLAIN RESTORATION AND PERCOLATION DAM REMOVAL** for the Solano County Water Agency.

NOW, THEREFORE, if the Principal shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of said Contract during the original term of said Contract and any extensions thereof that may be granted by the Agency, with or without notice to the Surety, and during the life of any guaranty required under the Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all modifications of said Contract that may thereafter be made, then this Obligation shall be void, otherwise the same shall remain in full force and virtue. No change made which increases or decreases the total Contract amount shall void this bond or reduce the effectiveness of the bond and no notice need be given to the Surety of such alteration.

Surety hereby expressly waives written notice of any changes, alterations, modifications of the Contract entered into between Principal and Agency and agrees and stipulates that such changes and modification shall be treated as part of such Contract and Surety shall be bound thereby.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 15 day of July, 2009.

K.O. Underground Construction, Inc. (Seal)

(Contractor as Principal)

By: _____

Merchants Bonding Company (Mutual)

(Surety)

By: _____

Renee Ramsey, Attorney-in-Fact

ACKNOWLEDGMENT

State of California
County of Sacramento)

On July 15, 2009 before me, Patricia M. Simas, Notary Public
(insert name and title of the officer)

personally appeared Renee Ramsey,
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.

OFFICIAL SEAL
PATRICIA M. SIMAS
NOTARY PUBLIC - CALIFORNIA
COMMISSION # 1602134
SACRAMENTO COUNTY
My Commission Exp. August 21, 2009

Signature Patricia M. Simas (Seal)

Merchants Bonding Company
(Mutual)

POWER OF ATTORNEY

CA71515

Know All Persons By These Presents, that the MERCHANTS BONDING COMPANY (MUTUAL), a corporation duly organized under the laws of the State of Iowa, and having its principal office in the City of Des Moines, County of Polk, State of Iowa, hath made, constituted and appointed, and does by these presents make, constitute and appoint

Richard W. Pratt, Renee Ramsey, B. G. Midstokke

of Sacramento and State of California its true and lawful Attorney-in-Fact, with full power and authority hereby conferred in its name, place and stead, to sign, execute, acknowledge and deliver in its behalf as surety any and all bonds, undertakings, recognizances or other written obligations in the nature thereof, subject to the limitation that any such instrument shall not exceed the amount of:

ONE MILLION ($1,000,000.00) DOLLARS

and to bind the MERCHANTS BONDING COMPANY (MUTUAL) thereby as fully and to the same extent as if such bond or undertaking was signed by the duly authorized officers of the MERCHANTS BONDING COMPANY (MUTUAL), and all the acts of said Attorney-in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.

This Power-of-Attorney is made and executed pursuant to and by authority of the following Amended Substituted and Restated By-Laws adopted by the Board of Directors of the MERCHANTS BONDING COMPANY (MUTUAL) on November 16, 2002.

ARTICLE II, SECTION 8 - The Chairman of the Board or President or any Vice President or Secretary shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the Seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof.

ARTICLE II, SECTION 9 - The signature of any authorized officer and the Seal of the Company may be affixed by facsimile to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed.

In Witness Whereof, MERCHANTS BONDING COMPANY (MUTUAL) has caused these presents to be signed by its President and its corporate seal to be hereto affixed, this 16th day of January, 2006.

MERCHANTS BONDING COMPANY (MUTUAL)

By Larry Taylor
President

STATE OF IOWA
COUNTY OF POLK ss.

On this 16th day of January, 2006, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of the MERCHANTS BONDING COMPANY (MUTUAL), the corporation described in the foregoing instrument, and that the Seal affixed to the said instrument is the Corporate Seal of the said Corporation and that the said instrument was signed and sealed in behalf of said Corporation by authority of its Board of Directors.

In Testimony Whereof, I have hereunto set my hand and affixed my Official Seal at the City of Des Moines, Iowa, the day and year first above written.

NOTARIAL SEAL IOWA
CINDY SMYTH
Commission Number 173504
My Commission Expires
March 16, 2009

Cindy Smyth
Notary Public, Polk County, Iowa

STATE OF IOWA
COUNTY OF POLK ss.

I, William Warner, Jr., Secretary of the MERCHANTS BONDING COMPANY (MUTUAL), do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said MERCHANTS BONDING COMPANY (MUTUAL), which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Company on this 15 day of July , 2009.

William Warner Jr.
Secretary

POA 0001 (1/06)

PREMIUM IS FOR CONTRAC RM AND IS SUBJECT TO ADJUSTMENT BASED ON FINAL CONTRACT PRICE.

Bond No. CAC71515
Premium included in
Performance Bond

LABOR AND MATERIALS BOND

KNOW ALL MEN BY THESE PRESENTS, THAT WE, K.O. Underground Construction, Inc. as Principal, and Merchants Bonding Company (Mutual) as Surety, are held and firmly bound unto the Solano County Water Agency, hereinafter called "Agency" in the sum of One Hundred Fifty-Nine Thousand Four Hundred Forty-Two and 50/100 dollars for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

The condition of this Obligation is such that whereas the Principal entered into a certain Contract, hereto attached, with the Agency, dated July 9, 2009, 2009 for the construction of: **PUTAH CREEK PERCOLATION DAM REMOVAL PROJECT** for the Solano County Water Agency.

NOW, THEREFORE, if the Principal shall promptly make payment to all persons supplying labor, and materials in the prosecution of the work provided for in said Contract, and any and all modifications of said Contract that may hereinafter be made, then this obligations shall be void, otherwise the same shall remain in full force and virtue. No change made which increases or decreases the total Contract amount shall void this bond or reduce the effectiveness of the bond and no notice need be given to the Surety of such alteration.

Surety hereby expressly waives written notice of any changes, alterations, modifications of the Contracted entered into between Principal and the Agency and agrees and stipulates that such changes and modification shall be treated as part of such Contract and Surety shall be bound thereby. This bond shall extend to and include any attorney's fees incurred and costs incurred by a claimant supplying labor or materials under this Contract. This bond shall further extend to any amounts due under the Unemployment Insurance Code with respect to work or labor performed under the Contract and to any amount required to be deducted, withheld and paid over to the Employment Development Department from the wages of employees of the contractor and subcontractors pursuant to Section 13020 of the Unemployment Insurance Code.

IN WITNESS WHEREOF, WE have hereunto set our hands and seals this 15 day of July, 2009.

K.O. Underground Construction, Inc. (Seal)

(Contractor as Principal)

By: _____

Merchants Bonding Company (Mutual)

(Surety)

By: _____

Renee Ramsey, Attorney-in-Fact

ACKNOWLEDGMENT

State of California
County of Sacramento)

On July 15, 2009 before me, Patricia M. Simas, Notary Public
(insert name and title of the officer)

personally appeared Renee Ramsey,
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.

OFFICIAL SEAL
PATRICIA M. SIMAS
NOTARY PUBLIC - CALIFORNIA
COMMISSION # 1602134
SACRAMENTO COUNTY
My Commission Exp. August 21, 2009

WITNESS my hand and official seal.

Signature Patricia M. Simas (Seal)

Merchants Bonding Company
(Mutual)

POWER OF ATTORNEY

CA71515

Know All Persons By These Presents, that the MERCHANTS BONDING COMPANY (MUTUAL), a corporation duly organized under the laws of the State of Iowa, and having its principal office in the City of Des Moines, County of Polk, State of Iowa, hath made, constituted and appointed, and does by these presents make, constitute and appoint

Richard W. Pratt, Renee Ramsey, B. G. Midstokke

of Sacramento and State of California its true and lawful Attorney-in-Fact, with full power and authority hereby conferred in its name, place and stead, to sign, execute, acknowledge and deliver in its behalf as surety any and all bonds, undertakings, recognizances or other written obligations in the nature thereof, subject to the limitation that any such instrument shall not exceed the amount of:

ONE MILLION ($1,000,000.00) DOLLARS

and to bind the MERCHANTS BONDING COMPANY (MUTUAL) thereby as fully and to the same extent as if such bond or undertaking was signed by the duly authorized officers of the MERCHANTS BONDING COMPANY (MUTUAL), and all the acts of said Attorney-in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.

This Power-of-Attorney is made and executed pursuant to and by authority of the following Amended Substituted and Restated By-Laws adopted by the Board of Directors of the MERCHANTS BONDING COMPANY (MUTUAL) on November 16, 2002.

ARTICLE II, SECTION 8 - The Chairman of the Board or President or any Vice President or Secretary shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the Seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof.

ARTICLE II, SECTION 9 - The signature of any authorized officer and the Seal of the Company may be affixed by facsimile to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed.

In Witness Whereof, MERCHANTS BONDING COMPANY (MUTUAL) has caused these presents to be signed by its President and its corporate seal to be hereto affixed, this 16th day of January, 2006.

MERCHANTS BONDING COMPANY (MUTUAL) INCORPORATED -o- 1933

MERCHANTS BONDING COMPANY (MUTUAL)

By Larry Taylor

President

STATE OF IOWA
COUNTY OF POLK ss.

On this 16th day of January, 2006, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of the MERCHANTS BONDING COMPANY (MUTUAL), the corporation described in the foregoing instrument, and that the Seal affixed to the said instrument is the Corporate Seal of the said Corporation and that the said instrument was signed and sealed in behalf of said Corporation by authority of its Board of Directors.

In Testimony Whereof, I have hereunto set my hand and affixed my Official Seal at the City of Des Moines, Iowa, the day and year first above written.

NOTARIAL SEAL IOWA
CINDY SMYTH
Commission Number 173504
My Commission Expires
March 16, 2009

Cindy Smyth

Notary Public, Polk County, Iowa

STATE OF IOWA
COUNTY OF POLK ss.

I, William Warner, Jr., Secretary of the MERCHANTS BONDING COMPANY (MUTUAL), do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said MERCHANTS BONDING COMPANY (MUTUAL), which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Company on this 15 day of July , 2009.

MERCHANTS BONDING COMPANY (MUTUAL) INCORPORATED -o- 1933

William Warner Jr.

Secretary

POA 0001 (1/06)

SECTION 1

GENERAL CONDITIONS

1.1 INTENT OF THE CONTRACT DOCUMENTS.

The Contract Documents as listed in the Instructions to Bidders are complementary, and what is called for by anyone shall be as binding as if called for by all. The intent of the Contract Documents is to require a complete and finished job. The Contract price shall include the cost of all labor and materials, fuel, tools, plant, equipment, light, transportation, and all other expenses as may be necessary for the proper execution of the work. In interpreting the Contract Documents, words describing materials or work which have a well-known technical or trade meaning, unless otherwise specifically defined in the Contract Documents, shall be construed in accordance with such well-known meaning recognized by engineers and the trade.

1.2 DEFINITIONS.

AGENCY/OWNER	Solano County Water Agency, acting through its Board of Directors.
CONTRACTOR	The person, firm or corporation duly licensed in the State of California, to whom the within Contract is awarded by the Agency and who is subject to the terms hereof. The word "Contractor" in printed form of Contract shall be the same as the "General Contractor".
CONTRACT ADMINISTRATOR	The Solano County Water Agency, acting either directly through its employees, or through properly maintained agents.
ENGINEER	an authorized agent; Wallace-Kuhl & Associates, Inc., West Sacramento, California, acting as either directly or through their properly maintained agents.

SUPERINTENDENT	The executive representative of the Contractor, present on the work at all times, authorized to receive and fulfill instructions from the Agency.
ACT OF GOD	Acts of God shall include only the following occurrences or conditions and effects: earthquakes in excess of a magnitude of 3.5 on the Richter Scale and tidal waves.
DRAWINGS	The Plans, profiles, maps, working Drawings, and supplemental Drawings, which show the location, character, dimensions, and details of the work to be done.
WORK/PROJECT	All the work specified in the Contract Documents or indicated on the Drawings.
ASTM	American Society for Testing Materials, current designation.
AASHO	American Association of State Highway Officials, current designation.
AWWA	American Water Works Association, current designation.
SSPC	Steel Structures Painting Council, current designation.
NSF	National Sanitation Foundation
DAY	All references to "day" are meant to be calendar day unless noted.

1.3 BONDS

.1 BID BOND. Bid Bond will be required as provided in Paragraph 3 of Instructions To Bidders.

.2 PERFORMANCE BOND. The bidder to whom the Contract is awarded shall furnish a Performance Bond as provided in Paragraph 8 of Instructions To Bidders.

.3 LABOR AND MATERIALS BOND. The bidder to whom a Contract is awarded shall furnish a Labor and Materials Bond as provided in Paragraph 8 of Instructions to Bidders.

1.4 WORKERS' COMPENSATION AND EMPLOYERS LIABILITY INSURANCE.

By his/her signature hereunder, Contractor certifies that he/she is aware of the provisions of Section 3700 of the California Labor code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing the performance of the work of this Contract. The Contractor and all sub-contractors shall insure (or be a qualified self-insured) under the applicable laws relating to workers' compensation insurance for all of their employees working on or about the construction site, in accordance with the "Workers' Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any Acts amendatory thereof. The Contractor shall provide employer's liability insurance with limits of no less than $1,000,000 each accident, $1,000,000 disease policy limit, and $1,000,000 disease each employee.

1.5 COMMERCIAL GENERAL LIABILITY AND AUTOMOBILE LIABILITY INSURANCE.

The Contractor shall provide and maintain commercial general liability and automobile liability insurance as follows (Appendix A. Standard Insurance Requirements):

.1. COVERAGE. Coverage for commercial general liability and automobile liability insurance shall be at least as broad as the following:

A. Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG 001)

B. Insurance Services Office (ISO) Business Auto Coverage (Form CA 0001), covering Symbol 1 (any auto)

The general liability insurance coverage will continue for at least ten years beyond the completion of the Work and will also provide coverage for Work done on behalf of the Contract; ongoing operations; completed operations liability, products liability, premises liability; blanket contractual liability; any liability arising from the use of owned and non-owned equipment; and liability arising from collapse, underground excavation, and removal of lateral support. Coverage applies to claims for damages including personal injury, bodily injury, death, products liability, and property damages.

Such liability insurance shall indemnify the Contractor, his/her subcontractors and additional insureds against loss from liability imposed by law upon, or assumed under contract by, the Contractor or his/her subcontractors and additional insureds for damages on account of such bodily injury (including death), property damage, personal injury, completed operations, and products liability.

The automobile liability policy shall cover all owned, non-owned, and hired automobiles for or on behalf of Contractor.

.2. POLICY LIMITS. The Contractor shall maintain limits no less than the following:

A. General Liability. Two million dollars ($2,000,000) per occurrence for bodily injury, death, personal injury, property damage, products liability, blanket contractual liability, ongoing operations and completed operations liability. If Commercial General Liability Insurance or other form with a general aggregate limit or products-completed operations aggregate limit is used, either the general aggregate limit shall apply separately to the Work/location (with the ISO CG 2503, or ISO CG 2504, or insurer's equivalent endorsement provided to the Agency) or the general aggregate limit and products-completed operations aggregate limit shall be twice the required occurrence limit.

B. Automobile Liability. Two million dollars ($2,000,000) per accident for bodily injury and property damage.

.3. REQUIRED PROVISIONS. Contractor shall make certain that the general liability and automobile liability policies contain or are endorsed to contain, the following provisions:

A. The Agency, and its directors, officers, employees, subcontractors, Engineer, design professionals or authorized agents and volunteers are to be given additional insured status (via ISO endorsement CG 20 10 11 85 form or, insurer's equivalent, if approved in writing, for general liability coverage) with respect to: liability arising out of (i) any and all construction activities, including those related to the Work and ongoing operations performed by or on behalf of the Contractors; (ii) the completed operations or completed products; (iii) use of premises owned, occupied or used by or on behalf of the Contractor; (iv) use of any vehicles owned, leased, hired or borrowed by or on behalf of the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the Agency, and its directors, officers, employees, subcontractors, Engineer, design professionals or authorized agents and volunteers.

B. For any claims related to this Work, the Contractor's insurance shall be the primary insurance with respect to the Agency, and its directors, officers, employees, subcontractors, Engineer, design professionals or authorized agents and volunteers. Any insurance, self-insurance, or other coverage maintained by the Agency, and its directors, officers, employees, subcontractors, Engineer, design professionals or authorized agents and volunteers shall not contribute to any claims related to this Work.

C. Contractor's failure to comply with reporting or other provisions of the insurance policies including breaches of warranties shall not affect coverage provided to the Agency, and its directors,

officers, subcontractors, Engineer, design professionals, employees, or authorized agents and volunteers.

D. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

E. Each insurance policy required by this Agreement shall state, or be endorsed to state, that coverage shall not be canceled by: (i) the insurance carrier, except after 10 days for non-payment of premium or (ii) the Contractor, except after thirty (30) days prior written notice by U.S. mail has been given to the Agency.

F. If any policy is cancelled for any reason, the Insurance carrier shall provide written notice of such cancellation within three (3) business days to all those named on the Additional Insured endorsements.

G. The Contractor shall waive all rights of subrogation against the Agency, and its directors, officers, employees, or authorized agents and volunteers for any liability arising out of this Agreement.

1.6 GENERAL INSURANCE REQUIREMENTS

.1. DEDUCTIBLES AND SELF-INSURED RETENTIONS. Any deductible or self-insured retention must be declared to and approved in writing by the Agency. At the option of the Agency, the insurer shall either reduce or eliminate such deductibles or self-insured retentions.

.2. ACCEPTABILITY OF INSURERS. All insurance policies shall be provided through insurance companies with a current A.M. Best financial strength rating of no less than "A-" and a class of no less than "VII" or as otherwise approved in writing by the Agency.

.3. EVIDENCES OF INSURANCE. Prior to execution of the Agreement, the Contractor shall file with the Agency a certificate of insurance (Acord Form 25-S or equivalent) signed by the insurer's representative evidencing the coverage required by this Agreement. Also prior to the

execution of this Agreement, the Contractor shall deliver to the Agency: (i) an additional insured endorsement signed by the insurer's representative; (ii) an executed waiver of rights of subrogation against the Agency; and (iii) confirmation that insurance coverage includes or has been modified to include the Required Provisions described above.

The Contractor shall, upon demand of the Agency, deliver to the Agency the complete insurance policy (or policies), including any and all endorsements, and the receipts for payment of premiums, within three (3) business days of such demand.

.4. CONTINUATION OF COVERAGE. If any of the required coverages expire during the term of this Agreement, the Contractor shall deliver the renewal certificate(s) including the general liability additional insured endorsement and evidence of waiver of rights of subrogation against the Agency to the Agency at least ten (10) calendar days prior to the expiration date.

.5. SUBCONTRACTORS. In the event that the Contractor employs other contractors (subcontractors) as part of the work covered by this agreement, it shall be the Contractor's responsibility to require and confirm that each subcontractor meets the minimum insurance requirements specified above.

The making of progress payments to the Contractor shall not be construed as creating an insurable interest by or for the Agency or be construed as relieving the Contractor or his/her subcontractors of responsibility for loss from any personal injury, bodily injury, death, physical loss, damage or destruction.

1.7 ALL RISK INSURANCE.

The Contractor shall secure and maintain "All Risk" Type Builder's Risk Insurance (or installation floater) covering all risks of direct physical loss, damage or destruction to the Work in the amount specified in the General Conditions, to insure against such losses until final acceptance of the Work by the Agency. Unless specifically authorized by the Agency, the amount of such insurance shall not be less than the

contract price totaled in the bid. Such insurance shall insure at least against the perils of fire and extended coverage, theft, vandalism and malicious mischief, flood, earthquake, collapse, vehicle damage, civil commotion, hail, lightning, wind, riot, aircraft, and smoke during the contract time, and until the Work is accepted by the Agency. The Agency, its directors, officers, employees, subcontractors, Engineer, design professionals or authorized agents and volunteers shall be named as additional insureds on any such policy.

1.8 INDEMNIFICATION.

.1. CONTRACT TO INDEMNIFY AGENCY. To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless and defend the Agency, its directors, officers, employees, or authorized agents and volunteers, and each of them from and against:

A. Any and all claims, demands, causes of action, damages, costs, expenses, losses or liabilities, in law or in equity, of every kind or nature whatsoever for, but not limited to, injury to or death of any person including Contractor and/or Agency, or any directors, officers, employees, subcontractors, Engineer, design professionals or authorized agents and volunteers of Agency or Contractor, and damages to or destruction of property of any person, including but not limited to, Agency and/or Contractor or their directors, officers, employees, subcontractors, Engineer, design professionals or authorized agents and volunteers, arising out of or in any manner directly or indirectly connected with the Work to be performed under this Agreement, including the completed operations, however caused, regardless of any negligence of Agency or its directors, officers, employees, subcontractors, Engineer, design professionals or authorized agents and volunteers, except the willful misconduct or sole negligence of Agency or its directors, officers, employees, subcontractors, Engineer, design professionals or authorized agents and volunteers;

B. Any and all actions, proceedings, damages, costs, expenses, penalties or liabilities, in law or equity, of every kind or nature whatsoever, arising out of, resulting from, or on account of the

violation of any governmental law or regulation, compliance with which is the responsibility of Contractor;

C. Any and all losses, expenses, damages (including damages to the work itself), attorneys' fees, and other costs, including all costs of defense, which any of them may incur with respect to the failure, neglect, or refusal of Contractor to faithfully perform the work and all of the Contractor's obligations under the Agreement. Such costs, expenses, and damages shall include all costs and attorneys' fees, incurred by the indemnified parties in any lawsuit to which they are a party.

.2. CONTRACTOR TO DEFEND AGENCY. Contractor shall defend, at Contractor's own cost, expense and risk, any and all such aforesaid suits, actions, or other legal proceedings of every kind that may be brought or instituted against Agency or its directors, officers, employees, subcontractors, Engineer, design professionals or authorized agents and volunteers.

Contractor shall pay and satisfy any judgment, award or decree that may be rendered against Agency or its directors, officers, employees, subcontractors, Engineer, design professionals or authorized agents and volunteers, in any and all such suits, actions, or other legal proceedings.

Contractor shall reimburse Agency or its directors, officers, employees, subcontractors, Engineer, design professionals or authorized agents and volunteers, for any and all legal expenses, costs or actual damages incurred by each of them in connection therewith or in enforcing the indemnity herein provided.

Contractor's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the Agency, or its directors, officers, employees, subcontractors, Engineer, design professionals or authorized agents and volunteers.

Contractor's obligation to indemnify Agency or its directors, officers, employees, subcontractors, Engineer, design professionals or

authorized agents and volunteers shall survive the termination or expiration of this Agreement.

The provisions of this Indemnity section shall survive termination of the Agreement as to any actions covered by this indemnification occurring during the term of the Agreement.

1.9 RATES AND WAGES.

The contractor and subcontractors shall not pay less than the prevailing rates of wages. Pursuant to the Statutes of the State of California, the Agency has ascertained and determined the general prevailing rate of per diem wages and rates for overtime and legal holidays in the locality in which this work is to be performed for each craft or type of workman or mechanic needed to execute the Contract. Copies of the prevailing wage scale for this work are available on the Internet at http://www.dir.ca.gov/dlsr/pwd. If those prevailing rate should change during the term of the Contract, the altered rates shall apply to the work performed after the date of change. The attention of the Contractor is directed to Section 1770 through Section 1780 of the Labor Code, which provides that the Contractor shall forfeit as penalty to the Agency, $50.00 for each calendar day or portion thereof for each workman (whether employed by the Contractor or subcontractor), paid less than the stipulated prevailing rates for any work done under the Contract in violation of the provisions of such Labor Code. The Agency will not recognize any claim for additional compensation because of the payment by the Contractor of any wage rate in excess of the prevailing wages set forth in the Contract Document. A possibility of wage increases is one of the elements to be considered by the Contractor in determining his proposal and will not under any circumstances be considered as a basis of a claim against the Agency on the Contract. Sections 1810 through 1814 of the Labor Code provide that eight (8) hours labor constitutes a legal day's work. The Contractor shall forfeit as penalty to the Agency $50.00 for each workman employed in the execution of the Contract by him or by any subcontractor under him, for each calendar day during which any

workman is required or permitted to labor for more than eight (8) hours in violation of the provisions of the Labor Code except as provided for in Section 1815 of the Labor Code.

1.10 LABOR REQUIREMENTS.

The Contractor shall comply with all applicable requirements of the Labor Code, including but not limited to provisions concerning the employment of apprentices.

1.11 PROGRESSIVE ESTIMATES.

Within ten (10) days of each calendar month, the Contract Administrator (or designee) will make in writing and certify to the Agency an estimate which in his opinion is just and fair of the amount and value of the work completed by the Contractor during the preceding month in the performance of the Contract. In case of work for which unit prices are named in the Contract, the estimate shall be computed on the basis of said unit prices. In the case of work for which a lump sum is named in the Contract, the Contract Administrator (or designee) may use a breakdown of the lump sum price submitted by the Contractor, provided that such breakdown is submitted within twenty (20) calendar days after the execution of the Contract Agreement in a form acceptable to the Contract Administrator (or designee). No payment will be made to the Contractor until such schedule has been submitted to and approved by the Contract Administrator. To the figure thus arrived at shall be added any amounts due the contractor for extra work and the amount of any approved claims for extra cost to the date of the Progress Estimate. The retained percentage hereinafter provided for shall be deducted from the total thus computed and from the remainder there shall be further deducted any amounts due the Agency from the Contractor for supplies or materials furnished or services rendered and any other amounts that may be due the Agency under the terms of the Contract. From the balance thus determined shall be deducted the amount of all previous payments and the remainder shall constitute the partial estimate for the period. Partial estimates shall not be required to be made by strict

measurement, but may be made by measurement or by estimation or partly by one method and partly by the other and it shall be sufficient if they are approximate only. Partial estimates may be withheld or reduced if, in the opinion of the Contract Administrator (or designee), the Contractor is not diligently and efficiently endeavoring to comply with the intent of the Contract.

1.12 PROGRESS PAYMENTS.

A. Per Public Contract Code Section 20104.50, the Agency shall make any progress payment to the Contractor within 30 days after receipt of an undisputed and properly submitted payment request from the Contractor, or shall pay interest to the Contractor equivalent to the legal rate set forth in subdivision (a) of Section 685.010 of the Code of Civil Procedure. Upon receipt of a progress payment request, the Agency shall act in accordance with the following:
   1. Each payment request shall be reviewed by the Contract Administrator as soon as practicable after receipt for the purpose of determining that the payment request is a proper payment request.
   2. Any payment request determined not to be a proper payment request suitable for payment shall be returned to the Contractor as soon as practicable, but not later than seven days, after receipt. A request returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper.

B. The number of days available for the Agency to make a payment without incurring interest pursuant to this section shall be reduced by the number of days by which the Agency exceeds the seven-day return requirement set forth in paragraph A.2, above.

C. Said progress payment shall equal ninety percent (90%) of the amount earned by the Contractor during the preceding pay period based on the findings of the Contract Administrator (or designee). The ten percent (10%) retained will be held by the Agency until the final completion and acceptance of all work

under the Contract. No such progress payment or estimate shall constitute an acceptance of the work or any portion thereof.

D. The Contractor shall comply with and is subject to the provisions of Public Contract Code section 7200, pertaining to retention proceeds withheld from a subcontractor.

1.13 ACCEPTANCE AND FINAL PAYMENT.

A. Upon receipt of written notice that the work is ready for final inspection and acceptance, the Contract Administrator will promptly make such inspection, and when the Contract Administrator finds the work acceptable under the Contract and the Contract fully performed, the Contract Administrator will promptly issue a final certificate, over the Contract Administrator's own signature, stating that the work required by this Contract has been completed. The Agency will then file a Notice of Completion with the County Recorder's Office within ten (10) days after the date of completion as required by the Civil Code of the State of California.

B. Undisputed portions of the final payment and of the retained percentage shall become due the Contractor upon delivery of a complete release of all liens, stop notices and claims against the Agency, and the Contract Administrator as agent of the Agency, arising out of this Contract, or receipts in full or other acceptable evidence of conformance, in lieu thereof, that there is no indebtedness, including liens, payrolls or material bills connected with the work which have not been paid for or completely satisfied, relating to said undisputed amounts, and an affidavit that so far as the Contractor has knowledge or information, that the releases and receipts include all the labor and materials for which a lien or stop notice could be filed relating to said undisputed amounts. Disputed contract claims in stated amounts may be specifically excluded by the Contractor from the operation of the release. The Contractor may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the Agency, to indemnify the Agency against any lien or stop notice. If any lien or stop notice

remains unsatisfied after all payments are made, the Contractor shall refund to the Agency all monies that the latter may be compelled to pay in discharging such a lien or stop notice, including all costs and reasonable attorney's fees.

C. Per the Agency procedure and Public Contract Code section 7107, the retention proceeds withheld from any payment by the Agency from the Contractor, or by the Contractor from any subcontractor, shall be subject to the following:

1. Between thirty-five (35) and sixty (60) days of the date of the completion of the work of improvement, and subject to the Contractor's furnishing the Agency with releases per Section B, above, the retention withheld by the Agency shall be released, and all monies due the Contractor under the provisions of these Contract Documents shall be paid. In the event of a dispute between the Agency and the Contractor, the Agency may withhold from the final payment an amount not to exceed 150 percent of the disputed amount.
2. Within seven days from the time that all or any portion of the retention proceeds are received by the Contractor, the Contractor shall pay each of its subcontractors from whom retention has been withheld, each subcontractor's share of the retention received. However, if a retention payment received by the Contractor is specifically designated for a particular subcontractor, payment of the retention shall be made to the designated subcontractor, if the payment is consistent with the terms of the subcontract.
3. The Contractor may withhold from a subcontractor its portion of the retention proceeds if a bona fide dispute exists between the subcontractor and the Contractor. The amount withheld from the retention payment shall not exceed 150 percent of the estimated value of the disputed amount.
4. In the event that retention payments are not made within the time periods required by this section, the Agency or the Contractor withholding the unpaid amounts shall be

subject to a charge of two (2) percent per month on the improperly withheld amount, in lieu of any interest otherwise due. Additionally, in any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to attorney's fees and costs.

D. Neither the acceptance of a portion or all of the work by the Agency or Contract Administrator, nor any possession taken by the Agency or its employees of any part of the work, shall operate as a waiver of any provision of this Contract or any power herein reserved to the Agency or any right of the Agency to collect damages as herein provided. No payment shall operate to release the Contractor or his sureties from obligations under this Contract and under the Performance Bond, Labor and Materials Bond, and other bonds and warranties as herein provided. All prior certificates, upon which partial payments may have been made, being merely estimates, shall be subject to correction in the final payment. The provision of Public Contract Code Section 7100 shall apply to these Acceptance Provisions.

E. Pursuant to Public Contract Code Section 7103.5, the Contractor offers and agrees to assign to the Agency all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract. This assignment shall be made and become effective at the time the Agency tenders final payment to the Contractor, without further acknowledgement by the parties.

1.14 QUANTITIES AND UNIT PRICES.

The quantities noted in the schedule are approximations for comparing bids, and no claim shall be made against the Agency for excess or deficiency therein. Payment at the unit and lump sum prices set forth in the schedule will constitute payment in full for the completed work and will include materials, supplies, labor, tools,

machinery, and all other expenditures incident to satisfactory compliance with the Contract, unless otherwise specifically provided.

1.15 MEASUREMENT OF QUANTITIES.

The quantities of work performed will be computed by the Contract Administrator (or designee) on the basis of measurements taken by the Contract Administrator (or designee), and these measurements shall be final and binding.

1.16 RESOLUTION OF CLAIMS.

Notwithstanding any other provision of this Contract, resolution of claims by the Contractor against the Agency in any amount shall be processed in accordance with the provisions of Article 1.5, Chapter 1, Part 3, Division 2 of the Public Contracts Code, Sections 20104 *et seq.* relating to informal conferences, non-binding judicially supervised mediation and judicial arbitration.

1.17 DISPUTES.

Except as otherwise provided in this Contract, any dispute concerning matters relating to execution, or progress of work, or interpretation of the Contract shall be decided by the Contract Administrator, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor within 15 days. If the Contractor disagrees with the decision, the Contractor may file a claim pursuant to Section 1.16, Resolution of Claims. Provided that if no such claim is filed, the decision of the Contract Administrator shall be final and conclusive. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract and in accordance with the Contract Administrator's decision.

1.18 EXTRA WORK.

The Agency, without invalidating the Contract, may order extra work or make changes by altering, adding to or deducting from the work, the Contract sum being adjusted accordingly. All such work shall be executed under the conditions of the original Contract. In giving

instructions, the Contract Administrator (or designee) shall have authority to make minor changes in the work, not involving extra cost, and not inconsistent with the purposes or the work, but otherwise, except in an emergency endangering life or property, no extra work or change shall be made unless in pursuance of a written order by the Contract Administrator and no claim for an addition to the Contract sum shall be valid unless so ordered. The value of any such extra work or change shall be determined in one or more of the following ways:

A. By estimate and acceptance in a lump sum.

B. By unit prices named in the Contract or subsequently agreed upon.

C. If a lump sum or unit price cannot be mutually agreed upon, the Contractor shall be entitled to the sum of the following costs of doing the extra work:

   1. Direct Labor Costs: Charges for cost of all of the labor furnished and used by the Contractor shall be made for manual classification up to and including general foremen. It will not include charges for Assistant Superintendents, Superintendents, Office Personnel, Time Keepers and Maintenance Mechanics. The time charged to extra work shall be subject to the daily approval of the Contract Administrator and evidence of such daily approval shall be submitted with the billing. Labor rates used to calculate the costs shall be those so designated in the Notice To Bidders. No time or charges will be allowed except when the men are actually engaged in the proper, efficient and diligent performance or completion of the extra work as authorized. Overtime shall not be worked without prior approval by the Contract Administrator.

   2. Equipment Costs: Charges for the rental and operations of the equipment furnished and used by the Contractor shall be made for all prime construction and automotive equipment. It will not include charges for equipment or tools with a new cost of one thousand dollars ($1,000.00) or less. Equipment time charges must be subject to the daily approval of the

Contract Administrator and evidence of such daily approval submitted with the billing. The equipment rental and operation rates used shall be those agreed upon by the Contract Administrator and Contractor prior to commencement of the extra work. No time or charges will be allowed except when equipment is actually being used for the proper and efficient performance or completion of the extra work as authorized.

3. Material Costs: Charges for the cost of materials furnished by the Contractor shall be made providing such furnishing was specifically authorized in the extra work order and the actual use verified by the Contract Administrator. Charges must be net cost to the Contractor delivered at the job, and vendor's invoice must accompany the billing along with verification use of such materials by the Contract Administrator.
4. Tools, Supplies, Overhead, Supervision and Profit. A charge for tools, supplies, overhead, supervision and profit will be allowed in the amount of fifteen percent (15%) of the total direct Labor Costs, Equipment Cost and Material Costs, as defined above. A maximum charge of an additional five percent (5%) for the prime contractor if work is performed by a subcontractor. In the case of joint ventures, each party is considered a prime contractor.
5. Any extra work performed hereunder shall be subject to all of the provisions of the Contract and the Contractor's sureties shall be bound with reference thereto as under the Contract.

1.19 CLAIMS FOR EXTRA WORK.

If the Contractor claims any instructions by drawings or otherwise involve extra cost, or if the contractor disagrees with the Contract Administrator's determination as to the value of the extra work or change, the Contractor may file a claim pursuant to Section 1.16, Resolution of Claims. Provided, that no such claim is filed, the

determination of the Contract Administrator shall be final and conclusive.

1.20 CONTRACT CHANGES AND PAYMENT THEREON.

In accordance with Section 4153 of the Government Code, the Agency may make changes in the work in the course of construction to bring the completed improvements into compliance with environmental requirements or standards established by state and federal statutes and regulations enacted after the Contract has been awarded. The Contractor shall be paid for such changes in accordance with the provisions of the Contract governing payment for extra work or change, Sections 1.18 and 1.19, above.

1.21 ASSIGNMENTS.

Neither party to the Contract shall assign the Contractor or sublet it as a whole without the written consent of the other, nor shall the Contractor assign any monies due or to become due to him hereunder, without the previous written consent of the Agency. Any attempted assignment without prior written consent of the Agency is void and of no effect.

1.22 SUBCONTRACTS.

The Contractor shall comply with the *"Subletting and Subcontracting Fair Practices Act"* of the Public Contracts Code. Each bidder shall set forth in his Proposal the name and the location of the place of business of each subcontractor who will perform work or labor or render service to the General Contractor in or about the construction of the work in an amount in excess of one-half (1/2) of one percent (1%) of the General Contractor's total bid, and the portion of work which will be done by each such subcontractor. Only competent subcontractors shall be employed on the work. Workers whom the Contract Administrator determines to be incompetent, intemperate, troublesome, disorderly or otherwise objectionable, or who fail to perform work properly and acceptably shall be immediately removed from the work by the Contractor at the direction of the Contract Administrator. No changes will be allowed from the approved

subcontractor list without the written approval of the Contract Administrator. The Contractor agrees that he is fully responsible to the Agency for the acts and omissions of his subcontractors and of persons either directly or indirectly employed by them as he is for the acts and omissions of persons directly employed by him. Nothing contained in the Contract Documents shall create any contractual relation between any subcontractor and the Agency.

1.23 SEPARATE CONTRACTS.

The Agency reserves the right to let other contracts in connection with this work. The Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate his work with theirs. If any part of the Contractor's work depends for proper execution or results upon the work of any other contract, the Contractor shall inspect and promptly report to the Contract Administrator any defects in such work that render it unsuitable for such proper execution and results. The Contractor's failure to so inspect and report shall constitute his acceptance of the other contractor's work as fit and proper for the reception of his work, except as to defects which may develop in the other contractor's work after the execution of his work. To ensure the proper execution of his subsequent work, the Contractor shall measure work already in place and shall at once report to the Contract Administrator any discrepancy between the executed work and the Drawings.

1.24 LIENS OR STOP NOTICES.

Neither the final payment nor any part or the retained percentage shall become due until the Contractor delivers to the Agency a complete release of all liens or stop notices arising out of this Contract, or receipts in full in lieu thereof and in either case, an affidavit that so far as he has knowledge or information, the releases and receipts include all the labor and material for which a lien or stop notice could be filed; but the Contractor may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond

satisfactory to the Agency, to indemnify the Agency against any lien or stop notice. If any lien or stop notice remains unsatisfied after all payments are made, the Contractor shall refund to the Agency all monies that the latter may be compelled to pay in discharging such a lien or stop notice, including all costs and a reasonable attorney's fee. The provisions outlined in Public Contract Code Section 7107 shall be a part of any action taken on liens or stop notices.

1.25 CONTRACTOR'S RIGHT TO SUBSTITUTE SECURITIES.

The Contractor may substitute securities for any monies withheld to insure performance under the Contract in strict accordance with Section 10263 of the Public Contracts Code of the State of California.

1.26 AGENCY'S RIGHT TO TERMINATE CONTRACT.

A. If the Contractor should be adjudged bankrupt, make a general assignment for the benefit of creditors, if a receiver should be appointed on account of his insolvency, or if he should fail to meet the requirements of the Contract, the Agency upon the certificate of the Contract Administrator that sufficient cause exists to justify such action, may, without prejudice to any other right or remedy, provide the Contractor with written notice terminating the Contractor's employment under this Contract. Upon receipt of such notice, the Contractor shall preserve site construction materials and equipment and undertake immediate steps to remedy such default. If the Contractor fails to remedy such default within seven (7) calendar days after receipt of such written notice, the Agency may terminate the Contractor's employment and take possession of the premises and of all materials, tools and appliance thereon and finish the work by whatever method the Agency may deem expedient. Upon such action the Contractor shall cooperate with the Agency in all respects in order to allow the Agency to proceed to completion of the work. In such case, the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the Contract price shall exceed the expense of finishing the work, including compensation for additional

managerial and administrative services, such excess shall be paid to the Contractor. If such expense shall exceed such unpaid balance, the Contractor shall pay the difference to the Agency. The expense incurred by the Agency as herein provided, and the damage incurred through the Contractor's default, shall be certified by the Agency.

B. The Agency may terminate the Contract upon ten (10) days written notice to the Contractor, if Agency finds reasons beyond the control of the parties, which make it impossible, or against Agency's interest to complete the work. In such a case, the Contractor shall have no claims against the Agency, except for the value of the work performed to the date of the termination, and the cost of materials and equipment on had, in transit, or on definite commitment, as of the date of termination if such materials and equipment would be needed in the work. The value of the work performed and the cost of materials and shipment delivered to the site shall be determined by the Contract Administrator in accordance with the procedure prescribed for the making of a final estimate and payment.

1.27 CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE THE CONTRACT.

If all of the work of the Project shall be stopped under an order of any court or other public authority for a period of three (3) calendar months through no fault or act of the Contractor or of any employee, subcontractors or agents of the Contractor, then the Contractor may on seven (7) days written notice to the Agency elect to terminate this Contract and recover from the Agency payment for all work executed to such date of election, any losses sustained on any plant or material and a reasonable profit on the work completed or done by the Contractor to the date of such written notice. This shall be the sole remedy of the Contractor under this Contract against the Agency, the Engineer, their agents or employees, but the Contractor shall retain all rights and causes of action against any other party than the forenamed for interference with the Contract.

1.28 CONTRACTOR'S UNDERSTANDING.

It is understood and agreed that the Contractor has, by careful examination, satisfied himself as to the nature and location of the work, existing utilities, the conformation of the ground, the character, quality and quantity of the materials to be encountered, the character of equipment and facilities needed preliminary to and during the prosecution of the work, local traffic, the general and local conditions, applicable environmental laws, and all other matters which can in any way affect the work under this Contract. No verbal agreement or conversation with any officer, agency or employee of the Engineer or the Agency, either before or after the execution of this Contract, shall effect or modify any one of the terms or obligations herein contained.

1.29 DRAWINGS AND SPECIFICATIONS FURNISHED.

Drawings furnished herewith are for bidding purposes. The Agency will furnish to the Contractor, free of charge, all copies of working Drawings and Specifications reasonably necessary for the execution of the work.

1.30 DRAWINGS AND SPECIFICATIONS ON THE WORK.

The Contractor shall keep one copy of all current Drawings and Specifications on the work. If the Contractor, in the course of the work, finds any discrepancy between the Drawings and the physical condition of the locality, or any errors or omissions in Drawings, or in the layout as given by points and instructions, it shall be his duty to immediately inform the Contract Administrator in writing and the Contract Administrator shall promptly verify the same. Any work done after such discovery, until authorized, will be done at the Contractor's risk.

1.31 OWNERSHIP OF DRAWINGS.

All copies of Drawings and Specifications furnished by the Agency are property of the Agency. They are not to be used on other work, and with the exception of the signed Contract set, are to be returned to the Agency on request, at the completion of the work.

1.32 CONFLICTS BETWEEN THE SPECIFICATIONS AND THE DRAWINGS.

In case of conflict between the Specifications and the Drawings, the conflict shall be brought to the attention of the Contract Administrator who shall resolve such conflict.

1.33 SHOP AND FABRICATION DRAWINGS.

Drawings furnished to the Contractor by the Agency shall not be construed as shop or fabrication Drawings. The Contractor shall furnish to the Contract Administrator (or designee) three copies of all shop and fabrication Drawings which are required prior to the fabrication or placement of any or all items. Shop and fabrication Drawings shall be submitted at least forty-five (45) calendar days before the materials indicated thereon are to be needed or earlier if required to prevent delay in the work. Within thirty (30) calendar days after receipt of shop or fabrication Drawings, or both, the Contract Administrator (or designee) will return one copy of these Drawings to the Contractor marked "No Exceptions Taken", "Make Correction Noted", "Amend and Resubmit", or "Rejected-Resubmit". The Contractor shall then correct the shop or fabrication Drawings, or both, as requested by the Contract Administrator (or designee), or resubmit an alternate and perform the work in accordance with the corrected Drawings or acceptable alternate thereto. The Agency reserves the right to require, at no additional cost over the unit prices bid in the schedule, such modifications or alterations as deemed necessary by the Contract Administrator. Notwithstanding the above provisions, the Contractor shall be responsible for obtaining proper fit and dimensions, and adequate strength to withstand dynamic and static loadings on the materials and equipment furnished by him. The Contract Administrator's (or designee's) review of fabrication Drawings will apply only to the general arrangement of the materials or equipment and shall not be construed as relieving the Contractor of the full responsibility for the work required by the contract. Fabrication or other work done prior to the Contractor's receipt of the reviewed shop and fabrication Drawings shall be done entirely at the Contractor's risk.

1.34 SUPERINTENDENCE AND SUPERVISION.

The Contractor shall keep on the work during its progress a Superintendent, necessary assistants, and workmen, all of whom are competent and satisfactory to the Agency. The Superintendent shall not be changed except with the consent of the Agency, unless the Superintendent proves to be unsatisfactory to the Contractor and ceases to be in his employ. The Superintendent shall represent the Contractor in his absence and all directions given to him shall be as binding as if given to the Contractor. The Contractor shall give proper supervision to the work, using his best skill and attention. Neither party shall employ or hire any employee of the other party without his consent.

1.35 TOOLS AND EQUIPMENT.

The Contractor must furnish adequate equipment and facilities to perform properly the work in a responsible manner in accordance with these Contract Documents. If, at any time before the commencement or during the progress of the work, tools, plant, or equipment appear to the Contract Administrator to be insufficient, inefficient, or inappropriate to secure the quality of the work required or the proper rate of progress, the Contract Administrator may order the Contractor to increase their efficiency, to improve their character, to augment their number, or to substitute new tools, plant, or equipment as the case may be, and the Contractor must conform to such order; but the failure of the Contract Administrator to demand such increase in efficiency, number, or improvement shall not relieve the Contractor of his obligation to secure the quality of work and the rate of progress necessary to complete the work within the time required by the Contractor to the satisfaction of the Agency.

1.36 INSPECTION OF WORK.

The Agency and their authorized agents, as well as the Engineer and his representatives shall at all times have access to the work wherever it is in preparation or progress and the Contractor shall provide proper facilities for such access and for inspection. If the Specifications, the Contract Administrator's instructions, law,

ordinances or any public authority require any work to be specially tested or approved, the Contractor shall give the Contract Administrator (or designee) timely notice of its readiness for inspection and, if the inspection is by an authority other than the Contract Administrator (or designee), of the time fixed for such inspection. Inspections by the Contract Administrator (or designee) shall be made promptly and where practicable, at the source of supply. If any work should be performed without approval or consent of the Contract Administrator (or designee), it must, if required by the Contract Administrator, be exposed for examination at the Contractor's expense, irrespective of whether the work exposed is found to be defective or not. Re-examination of questioned work may be ordered by the Contract Administrator, and if so ordered, the work must be uncovered by the Contractor. If such work be found in accordance with the Contract Documents, the Agency will pay the cost of re-examination and replacement. If such work be found not in accordance with the Contract Documents, the Contractor shall pay such cost, unless he shall show that the defect in the work was caused by another contractor, and in that event, the Agency will pay such cost. The inspection of the work shall not relieve the Contractor of any of his obligations to fulfill his Contract as herein prescribed, and defective work shall be made good, and unsuitable materials may be rejected, notwithstanding that such work and materials have been previously overlooked by the Contract Administrator (or designee) and accepted or estimated for payment. If the work, or any part thereof, shall be found defective at any time before the final acceptance of the whole work, the Contractor shall within ten (10) calendar days make good such defect without compensation in a manner satisfactory to the Contract Administrator. If the Contractor shall fail or neglect to make ordered repairs of defective work or to remove condemned materials from the work within ten (10) calendar days after direction by the Contract Administrator in writing to do such repair work or remove such materials, the Agency may make the ordered repairs or remove the condemned materials and deduct the cost thereof from any monies due the Contractor.

1.37 SAMPLES AND TESTS.

At the option of the Contract Administrator (or designee), the source of supply of each of the materials shall be approved by Contract Administrator (or designee) before the delivery is started and before such material is used in the work. Representative preliminary samples of the character and quality prescribed shall be submitted by the Contractor or producer of all materials to be used in the work for testing or examination as requested by the Contract Administrator (or designee). All tests of materials furnished by the Contractor shall be made in accordance with the commonly recognized standards of national technical organizations and such special methods and tests as are prescribed in these Specifications. The Contractor shall furnish the Agency three certified copies of all required factory and mill test reports. Any materials shipped by the Contractor from a factory or mill prior to having satisfactorily passed such testing and inspection by a representative of the Agency shall not be incorporated in the work, unless the Contract Administrator shall have notified the Contractor in writing that such testing and inspection will not be required. The Contractor shall furnish, without charge, such samples of materials as are requested by the Contract Administrator (or designee). No material shall be used until it has been approved by the Contract Administrator (or designee). Samples will be secured and tested whenever necessary to determine the quality of the material. Independent inspection and/or testing of work and materials may be required as a part of this contract and may be specified in the appropriate subsection. The inspection of materials shall not relieve the Contractor of the obligations under the Contract, and the Contractor shall replace or repair such equipment, materials, or work found to be defective or otherwise not to comply with the requirements of the Contract up to the end of the guaranty period.

1.38 CONTRACT ADMINISTRATOR'S STATUS.

The Contract Administrator will have general supervision and direction of the work. Where appropriate, the Contract Administrator may designate some Contract Administrator's duties stipulated in the

Contract Documents to authorized agents, such as the Engineer or others, for assistance and performance without relinquishing any authority or final decision and veto power over decisions made by authorized agents. The Contract Administrator shall give all orders, lines, grades and directions contemplated under the Contract. He has authority to stop the work whenever such stoppage may be necessary to insure the proper execution of the Contract. He shall also have authority to reject all work and materials, which do not conform to the Contract, to direct the application of forces to any portion of the work, as in his judgment is required, and to order the force increased or diminished, and to decide questions, which arise in the execution of the work. The undertaking of periodic inspections by the Contract Administrator shall not be construed as supervision of the actual construction nor make the Contract Administrator or the Agency responsible for providing a safe place for the performance of the work by the Contractor, subcontractors or suppliers, or by agents or employees of the Contractor, subcontractors or suppliers; or for access, visits, use, work, travel or occupancy by any person.

1.39 PROTECTION OF WORK AND PROPERTY.

The Contractor shall maintain continuously adequate protection, including the erection of temporary fences if required, of all his work from damage and shall protect private landowner or Agency property from injury or loss arising in connection with this Contract. He shall make good any such damage, injury or loss, except such as may be directly due to errors in the Contract Documents or caused by agents or employees of the Agency. He shall protect adequately adjacent property which shall include livestock and crops. He shall provide and maintain all passageways, barricades, lights, and other facilities for protection required by public authority or local conditions. The Contractor shall use extreme care during construction to prevent damage from dust to adjacent property. The Contractor shall sprinkle the right-of-way or take other dust abatement preventive measures as directed by the Contract Administrator (or designee). The Contractor shall be responsible for all damage or injury, which may be caused on any property by trespass by the Contractor or his

employees in the course of their employment, whether the said trespass was committed with or without the consent or knowledge of the contractor. The Contractor shall be responsible for any damage caused by drainage or storm water run-off from construction areas and from construction plant areas. In an emergency affecting the safety of life or of the work or of adjoining property, the Contractor, without special instruction or authorization from the Contract Administrator, is hereby permitted to act, at his discretion, to prevent such threatened loss or injury, and he shall so act, without appeal, if so instructed or authorized.

1.40 RESPONSIBILITY FOR REPAIR OF WORK.

All work under and implied by this Agreement shall be under the Contractor's responsible care and charge. The Contractor shall rebuild, repair, and restore any damages or defects that occur under its care regardless of the cause of damage.

1.41 RESPONSIBILITY REGARDING EXISTING UTILITIES, STRUCTURES AND PRIVATE PROPERTY.

Pursuant to Section 4215 of the Government Code, the Agency agrees to assume the responsibility, between the parties to the Contract, for the timely removal, relocation, or protection of existing main or trunk-line utility facilities located on the site of any construction project that is a subject of the Contract, if such utilities are not identified by the public agency in the Plans and Specifications made a part of the invitation for bids.

The Contractor shall be compensated for the costs of locating and repairing damage not due to the failure of the Contractor to exercise reasonable care, and removing or relocating such utility facilities not indicated in the Plans and Specifications with reasonable accuracy and for equipment on the Project necessarily idled during such work. The Contractor shall not be assessed liquidated damages for delay in completion of the Project, when such delay was caused by the failure of the Agency or the owner of the utility to provide for removal or relocation of such utility facilities. Nothing herein shall be deemed to

require the Agency to indicate the presence of existing service laterals or appurtenances whenever the presence of such utilities on the site of the construction Project can be inferred from the presence of other visible facilities, such as buildings, meter and junction boxes, on or adjacent to the site of the construction; provided, however, nothing herein shall relieve the Agency from identifying main or trunk-lines in the Plans and Specifications.

Nothing herein shall preclude the Agency from pursuing any appropriate remedy against the utility for delays, which are the responsibility of the utility.

Nothing herein shall be construed to relieve the utility from any obligation as required either by law or by Contract to pay the cost of removal or relocation of existing utility facilities.

If the Contractor, while performing the Contract, discovers utility facilities not identified by the Agency in the Contract, Plans or Specifications, he shall immediately notify the Agency and utility in writing.

The public utility, where they are the owners, shall have the sole discretion to perform repairs or relocation work or permit the Contractor to do such repairs or relocation work at a reasonable price.

The Contractor shall adequately protect all private and the Agency property within the construction area including pipelines, structures and existing irrigation and drainage facilities whether or not same are shown on the Drawings. Any such facilities damaged shall be repaired or replaced to the satisfaction of the Contract Administrator. There shall be no additional cost to the Agency for such repair or replacement.

The Contractor shall utilize the Regional Notification Center (Underground Services Alert) and pay all fees and abide by all

requirements of such Center and Government Code Section 4216, in advance of any excavation.

1.42 LAW TO BE OBSERVED.

The Agency is subject to laws relating to public agencies which are part of the Contract as though fully set forth herein. The Contractor shall keep himself fully informed of all existing and future State and National laws, ordinances and regulations of the Agency, and the Division of Industrial Safety, and the applicable jurisdictional regulatory agencies, including but no limited to the California Air Board, California Department of Fish and Game, US Army Corps of Engineers, US Fish and Wildlife Service, NOAA National Marine Fisheries Service, which in any way affect those engaged or employed in the work, or which in any way affect the conduct of the work, and all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. The Contractor, himself, shall at all times observe and comply with, and shall cause all his agents and employees to observe and comply with all such existing and future laws, ordinances, regulations, orders, and decrees; and shall protect and indemnify the Agency, the Engineer and all of its or their officers, agents, servants, and volunteers against any claim or liability arising from or based on the violation of any such laws, ordinances, regulation, orders, or decrees, whether by himself or his 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, the Contractor shall forthwith report the same to the Contract Administrator and Engineer in writing.

1.43 SANITATION.

The Contractor shall provide adequate sanitary facilities according to state laws and local ordinances.

1.44 SAFETY.

The Contractor shall execute and maintain his/her work so as to avoid injury or damage to any person or property. The Contractor

shall comply with the requirements of the specifications relating to safety measures applicable in particular operations or kinds of work.

In carrying out his/her work, the Contractor shall at all times exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed, and be in compliance with all applicable federal, state and local statutory and regulatory requirements including California Department of Industrial Relations (Cal/OSHA) regulations; and the U.S. Department of Transportation Omnibus Transportation Employee Testing Act. Safety precautions, as applicable, shall include but shall not be limited to: adequate life protection and life saving equipment; adequate illumination; instructions in accident prevention for all employees, such as the use of machinery guards, safe walkways, scaffolds, ladders, bridges, gang planks, confined space procedures, trenching and shoring, fall protection, and other safety devices; equipment and wearing apparel as are necessary or lawfully required to prevent accidents, injuries, or illnesses; and adequate facilities for the proper inspection and maintenance of all safety measures.

The names and telephone numbers of at least two medical doctors practicing in the vicinity and the telephone number of the local ambulance service shall be prominently displayed at the construction site.

1.45 ACCIDENTS.

The Contractor shall provide, at the site, such equipment and medical facilities as are necessary to supply first-aid service to anyone who may be injured in connection with the work. The Contractor must promptly report in writing to the Agency all accidents whatsoever arising out of, or in connection with, the performance of the work, whether on, or adjacent to, the site, which caused death, personal injury, or property damages, giving full details and statements of witnesses. In addition, if death or serious injuries or serious damages are caused, the accident shall be reported immediately by

telephone or messenger to both the Contract Administrator and the Agency. If any claim is made by anyone against the Contractor or any subcontractor on account of any accident, the Contractor shall promptly report the facts in writing to the Agency, giving full details of the claim.

1.46 NON-DISCRIMINATIONS OF EMPLOYMENT.

The Contractor's attention is called to Section 1735 of the Labor Code which reads as follows:

No discrimination shall be made in the employment of persons upon public works because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, martial status or sex of such persons, except as provided in Section 12940 of the Government Code, and every contractor for public works violating this section is subject to all penalties imposed for a violation of this chapter.

The Contractor shall post all necessary notices and provide the Agency certification that he is in full conformance with these regulations.

1.47 FAIR EMPLOYMENT PRACTICES.

A. In the performance of this contract, the Contractor will not discriminate against any employee or applicant as detailed in Government Code Section 12940. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without respect to any discriminatory practice. The Contractor shall post in conspicuous places available to employees and applicants provisions of the Fair Employment Practices Act.

B. The Contractor will permit access to his records of employment, employment advertisements, application forms, and other pertinent data and records by the State Fair Employment Practices Commission, or any other agency of the State of California designated by the Agency, for the purpose of investigation to ascertain compliance with the Fair Employment Practices section of this Contract.

1.48 MINORITY AND SMALL BUSINESS PARTICIPATION.

Positive efforts shall be made by the Contractor to utilize small business and minority owned business sources of supplies, service and Work on the Project. Positive efforts should be such as to allow such sources the maximum feasible opportunity to compete for all Work.

1.49 POLLUTION.

The Contractor shall conform to all federal, state and local requirements regarding water pollution. He shall further comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act of 1970.

1.50 CLIMATIC CONDITIONS.

The Contract Administrator may order the Contractor to suspend work that may be subject to damage by climatic conditions.

1.51 RIGHTS-OF-WAY.

Except as noted herein, the Agency will provide the right-of-way for permanent works and access to the site. The Contractor will be permitted to use the right-of-way for access and construction purposes. The Contractor shall properly maintain or restore all private roads, lanes, walkways, bridges, culverts, gates, fences and other structures that are damaged or removed by him. Upon completion of the construction work, the Contractor shall restore ground surfaces and access roads to the original condition and to the satisfaction of the Contract Administrator at no additional cost to the Agency. The Contractor shall not be entitled to extra compensation for hardships and increased cost caused by the work being routed adjacent to telephone, telegraph or communication lines and guy wires, power-lines and guy wires, pipelines, drains, and other obstacles which may physically restrict or limit the use of the construction right-of-way. In some cases, such physical confinement may necessitate special methods of construction of the work.

1.52 ROYALTIES AND PATENTS.

The Contractor shall pay all royalties and license fees. He shall defend all suits for infringement of any patent rights and shall save the Agency harmless from loss on account thereof, except that the Agency shall be responsible for all such loss when a particular process or the product of a particular manufacturer or manufacturers is specified, but if the Contractor has information that the process or article specified is an infringement of a patent he shall be responsible for such loss unless he promptly gives such information to the Contract Administrator.

1.53 PERMITS AND RESPONSIBILITIES.

The Contractor shall, without additional expense to the Agency, obtain all licenses and permits required for the prosecution of his work. Copies of all such licenses and permits shall be furnished to the Agency before commencement of such work. He shall be responsible for all damages to persons or properties that occur as a result of his fault or negligence in connection with the prosecution of the work.

1.54 TAXES AND FEES.

The Contractor shall pay all sales and other taxes that may be required by law, and he shall pay all license and other fees that may be required by an agency having jurisdiction.

1.55 DELAYS AND EXTENSION OF TIME.

If the Contractor be delayed at any time in the progress of the work by any act or neglect of the Agency or its agents or employees, or by any other contractor employed by the Agency, or by changes ordered in the work, or by strikes, lockouts, fire, climatic conditions, unusual delay in transportation, Act of God, unavoidable casualties or any causes beyond the Contractor's control, or by delay authorized by the Contract Administrator, or by any cause which the Contract Administrator shall decide to justify the delay, then the time of completion shall be extended for such reasonable time as the Contract Administrator may order in writing. No such extension shall be made for delay occurring more than seven (7) calendar days

before claim, therefore, is made in writing to the Contract Administrator. In the case of a continuing cause of delay, only one claim is necessary. If no schedule or agreements stating the dates upon which Drawings shall be furnished is made, then no claim for delay shall be allowed on account of failure to furnish Drawings until two (2) weeks after demand for such Drawings and not then unless such claim be reasonable. If the Contractor disagrees with the Contract Administrator's decision, the Contractor may file a claim pursuant to Section 1.16, Resolution of Claims. Provided that if no such claim is filed, the decision of the Contract Administrator shall be final and conclusive.

1.56 CONTRACTOR NOT RESPONSIBLE FOR COSTS RELATED TO DAMAGE FROM ACTS OF GOD.

In accordance with Public Contract Code Section 7104, the Contractor shall not be responsible for the cost of repairing or restoring damage to the work, which damage is determined to have been proximately caused by an Act of God, in excess of five percent (5%) of the contracted amount, provided, that the works damaged were built in accordance with the Plans and Specifications.

1.57 CLEAN-UP.

During the progress of the work, the Contractor shall maintain the site and related structures and equipment in a clean, orderly condition and free from unsightly accumulations of rubbish. Upon completion of the work, the Contractor shall remove from the vicinity of the work all buildings, unused materials, rubbish, staged materials, and other like items, belonging to him or used under his direction during construction, and in the event of his failure to do so, the same may be removed by the Agency after ten (10) calendar days' notice to the Contractor at the expense of the Contractor, and his surety or sureties shall be liable therefore. No direct payment will be made to the Contractor for any clean-up work, but all compensation, therefore, shall be included in the prices bid in the schedule for the various items of work.

SECTION 2

SPECIAL CONDITIONS

2.1 AMENDMENT TO GENERAL CONDITIONS.

SECTION 1-GENERAL CONDITIONS are amended per this sub-section as follows:

There are no amendments to the SECTION 1-GENERAL CONDITIONS.

2.2 REQUIREMENTS.

It is required that there be the removal and disposal of the Putah Creek percolation dam, and the potential creation of a low floodplain terrace constructed and completed in accordance with the following Contract Documents **PUTAH CREEK FLOODPLAIN RESTORATION AND PERCOLATION DAM REMOVAL PROJECT** Improvement Plans ("Plans") for the Solano County Water Agency (Agency).

2.3 DESCRIPTION OF THE WORK SITE.

The work site is located near Winters, California, straddling Solano and Yolo Counties. The property on which work site is located is owned by the City of Winters. The Agency has an agreement with the City to implement this work. The work site is located within and along the active channel of Lower Putah Creek. A staging and borrow area is available on the "Putah Creek Flats" (Flats), downstream of the dam, located on a low flood plain terrace with a pre-existing series of haul roads within the active channel banks, which once improved, will provide access to dam site from the Flats.

An approximate longitudinal profile is provided in Appendix B, which describes the upstream portion of the Work Site, and approximate cross-sections are provided in the Plans. Please note that the age and scale of the data used for these approximations makes them useful only to show the general context of the Work Site. If the Contractor requires more detailed information about the Work Site, it

is the Contractor's responsibility to collect that information, at his expense.

2.4 DESCRIPTION OF THE WORK.

Funding for this work is completely provided by a grant from the California Resources Agency River Parkway Program. The work consists of: the rehabilitation of an pre-existing haul road leading to Putah Creek Flats from South Putah Creek Road; implementation of Best Management Practices to protect Putah Creek for unintended sediment impacts; clearing, grubbing, install and maintain protective fencing of elderberry shrubs, and grading pre-existing roads and establishing appropriate staging area(s) within Putah Creek Flats and the associated detention cells (primary borrow areas); demolition and removal of a 1930's reinforced concrete percolation dam (approximately 160 feet long bank to bank x 15 feet high x 14 feet wide at the water surface, Please note: *no construction details are available and true dimensions are unknown);* the potential establishment of an engineered, low terrace embankment of sufficient height and width (no more than 20 feet wide by 240 feet long, parallel to the south bank) which may be used as a temporary haul road from the staging area to the dam structure for removal of dam debris and a potential location to dispose of processed concrete dam debris; staging, hauling, placing, and compacting native soil and processed dam debris materials (or off-site hauling and disposal of unprocessed material); disposal of refuse, and final grading of the worksite to meet natural contours for restoration.

2.5 COMMENCEMENT, PROSECUTION, COMPLETION OF WORK.

The Contractor shall begin and complete all work within the time stated in the *Instruction To Bidders*. The capacity of the Contractor's construction plant, sequence of operations, method of operations, and the forces employed shall, at all times during the continuance of the Contract, be subject to the approval of the Contract Administrator and shall be such as to insure the completion of the work within the dates specified.

Construction activities shall not begin in earnest before July 19, 2009, without concurrence by an avian biologist and approval by the Agency. All work must be completed by October 15, 2009.

2.6 ORDER OF COMPLETION.

There will be a continual water flow down Putah Creek. An existing ramp from South Putah Creek Road must be graded to gain access to the work site, the Best Management Practices (BMPs) must be implemented as soon as practical to protect Putah Creek from sediment mobilization impacts. The Storm Water Pollution Prevention Plan (SWPPP) and the Plans describe the locations and methods to be followed. The elderberries must be fenced as soon as safe access down to the Flats is established, and prior to any other grading or earthmoving activities. The borrow, staging and turn around areas must be cleared and grubbed, and access to the dam surface (as necessary), must be secured.

Equipment access to the dam, from Putah Creek Flats, may be procured by building a low terrace embankment within the active channel along the south bank of Putah Creek as shown on the plans. In constructing such an embankment, the Contractor shall initially use on-site native borrow material from the Eastern Detention Cell (or as otherwise directed by the Contract Administrator or Engineer). This embankment can provide equipment access to begin the demolition of the concrete dam structure. If equipment access is not required, then a smaller embankment or other means can be created to dispose of clean processed concrete rubble, as approved by the Contract Administrator or Engineer. Alternately, the Contractor can remove all concrete from the site for other disposal. If concrete is to remain onsite, clean concrete rubble of sufficient manner, as specified (-6 inch sizing, all rebar removed) and approved by Contract Administrator or Engineer, can be deposited within the embankment. The concrete rubble layer shall be located at the lowest elevation feasible and such that the top of said layer shall be no less than four (4) feet below finished grade as measured from the

top of the final soil fill cap at any point. No Dam rubble shall be left exposed at the site.

The Contractor shall submit, as requested by the Contract Administrator, schedules which will show the order in which the Contractor proposes to carry out the work, with dates at which time the Contractor will start the several parts of work, and estimated date of completion of the several parts.

2.7 WORK DETAILS, OPTIONS, AND CONSTRAINTS.

The intent of the Contract Documents is to provide a performance-based standard for Project completion. The primary goal of this Project is the complete removal of the concrete dam structure. The Plans provided are to demonstrate a conforming methodology but are not absolute. The proposed construction of a low terrace embankment is a means to that end, and provides secondary benefits. If the Contractor deems that an embankment is not required for purposes of access, some form of embankment may be required to dispose of clean processed concrete rubble, or alternate means of concrete rubble and refuse disposal will be required in accordance with the guidelines provided in the Contract Documents.

The dimensions of the embankment identified in this document are the maximum allowable per the regulatory permits. The Contractor may optimize the dimensions, providing a smaller-scale low terrace embankment, in width and height, as deemed necessary and sufficient by the Contractor and approved by the Contract Administrator or Engineer to complete the work as required.

The dam removal can be completed in sections; however the removal should be completed from the north bank to the south bank. The Contractor shall consider the following construction options to perform the demolition phase: 1) Consider demolition by pneumatic hammers or other equivalent conventional equipment. 2) Consider demolition by use of explosives. 3) Consider any combination of those and/or other feasible demolition options, which will not require

modifications to or violate environmental permit conditions (provided in Appendix C. Permits), induce unacceptable liability, and/or impact completion of the Project on time.

The Contractor shall provide a brief, clear, and concise prospectus, along with the submitted Bid Proposal, that outlines the intended methodology to satisfactorily complete the Project, as intended in the spirit implied by these Contract Documents that the bid price is based upon. The prospectus shall include, but shall not be not limited to, a description of the means by which contractor intends to get equipment access to the dam and types of equipment anticipated to implement work, a description and typical cross-section drawing depicting the intended width and height of the low terrace embankment to be constructed, if applicable, and limits of associated layers of material within it, and an explanation of demolition and disposal methodology to be utilized and evidence of experience with proposed techniques. The description and schematic of the low terrace embankment shall also describe the proposed methodology to support the slope of the embankment and protect its interface with the creek water as detailed in Sections 3 and 5.

The Agency reserves the right to reject any bids deemed unacceptable regardless of proposed cost, if the Agency determines that the bidder or the bid is not responsible to the needs of the Agency and to the proposed Project. After contract execution, no additional payment shall be made for lack of performance due to Contractor's assumptions and chosen methodology to remove the dam or to construct the low terrace embankment. All optional activities and any variations must be approved in writing by the Contract Administrator prior to the commencement of work of that phase. Approval by the Contract Administrator or designees of any of the Contractor's operations or methods in performance of any activity shall not relieve the Contractor of his responsibilities provided for in these Contract Documents.

2.8 MATERIALS FURNISHED BY THE CONTRACTOR.

Unless otherwise stipulated, the Contractor shall provide and pay for all materials, labor, tools, equipment, light, power, water, transportation and other facilities necessary for the execution and completion of the work. All materials shall be new and of a good quality. The Contractor shall, if requested, furnish satisfactory evidence as to the kind and quality of materials.

2.9 MATERIALS FURNISHED BY THE AGENCY.

The Agency will provide post-construction re-vegetation.

2.10 ACCESS TO THE WORK.

The City of Winters will provide access to work site by providing access to the Putah Creek Road gate. Contractor will provide a new lock with keys for City of Winters, Agency designates, and public safety representatives.

The Contractor is responsible for maintaining site access for Engineer, Agency designates, and City representatives for inspections, and to public safety organizations for emergencies.

The Agency may require access to the work site to deposit and place clean fill in the detention ponds on Putah Creek Flats. The Contractor shall make all reasonable efforts to coordinate and accommodate such requests by the Agency.

2.11 PRECONSTRUCTION CONFERENCE.

Prior to the start of construction the Contract Administrator will conduct a preconstruction conference. At the conference the Contract Administrator will review the Project with the Contractor and other interested parties.

2.12 COOPERATION WITH LOCAL LANDOWNERS.

The Contractor will work closely with Contract Administrator and Engineer to ensure that neighbors and local landowners are informed about major Project activities, and their timing, to ensure the least

possible disruption to their activities. Of particular concern to the local community is that traffic on South Putah Creek Road is disrupted as little as possible, noise is abated, and any lighting is equipped with effective shades to eliminate off-site glare. The City of Winters has specific noise and vibration standards that must be met by the contractor:

The City's Zoning Code contains a provision that limits noise levels from construction activities to 90 dB, as measured at 50 feet from a single piece of equipment, provided that activities are limited to the hours of 7:00 a.m. to 7:00 p.m. on weekdays. Activities on weekends and holidays are subject to the applicable standards at the receiving land use. The City Code also prohibits vibration levels above the threshold of perception for an individual at or beyond the property boundary of the source if on private property, or at 150 feet from the source if on a public space or public right-of-way (City of Winters, 2001).

2.13 SURVEYS, LINES, AND GRADES.

Basic lines and grades will be staked out by the Contractor. The Contractor shall make a general check of all lines, dimensions and elevations, and shall make all necessary rechecks during the progress of the work to avoid errors in construction. Furthermore, he shall check each unit of work as it is completed in order to insure the proper installation of subsequent work. The Contractor shall be responsible for proper dimensions and fittings of all items of work or materials being performed or installed by Contractor. Should any discrepancy be found in lines, dimensions or elevations they shall be reported to the Contract Administrator (or designee) immediately. The Contractor shall advise the Contract Administrator (or designee) not less than five (5) calendar days in advance of the commencement of work that stakes are required. Benchmarks and survey stakes shall be preserved by the Contractor. In case of their destruction or removal by Contractor or Contractor's employees before completion of the Contract, they will be replaced by the Contractor at the Contractor's expense.

2.14 EXISTING UTILITIES.

The Project site lacks water, power, sewer, telephone, and all other utilities. Arrangements with the City of Winters, or local landowners must be made for water for dust control.

2.15 LIQUIDATED DAMAGES.

It is agreed and stipulated between the Agency and the Contractor, that damage will be sustained by the Agency from any delays in the performance of this Contract, and it is currently contemplated by the parties, and estimated by the parties, that it will be impracticable and extremely difficult to fully ascertain and determine the actual damage which the Agency will sustain by such delays. The parties agree that they shall be deemed to have jointly studied and attempted to estimate the damages suffered by the Agency by such a delay under these circumstances and to agree and stipulate by this Contract that the sum of two thousand dollars ($2,000.00) per day for each and every additional calendar day beyond the time prescribed to complete the work has been agreed to by the parties as a fair estimate of the damage to be suffered by the Agency from and as a direct result of such a delay. The time set for the completion of this work is set forth in the Instructions To Bidders.

2.16 GUARANTY.

In addition to specific guaranties where stated elsewhere, the Contractor hereby agrees to pay to the Agency or to make at their own expense all repairs, replacements, or payments necessitated by defect in materials or workmanship supplied under the terms of this Contract which exist within one year after the date of final acceptance of the work. The Contractor shall be fully responsible for all direct and indirect damages and expenses to the Agency caused by such defects in materials or workmanship, including defects in materials and workmanship supplied to the Contractor by a subcontractor or manufacturers of equipment. As to any equipment or materials, which bear a guaranty or warranty in writing or by law for a period longer than one year, the guaranty or warranty shall be

for such longer periods. The effective date for the start of the guaranty or warranty period for equipment qualifying as substantially complete, shall be upon the time the Agency takes possession and operation of such equipment or materials. The Contractor also agrees to hold the Agency harmless from liability of any kind, arising from damage due to such defects. The Contractor shall make all repairs and replacements or payments promptly upon receipt of written order for the same from the Agency. If the Contractor fails to make the repairs or replacements or payments promptly, the Agency may do the work and the Contractor and his surety shall be liable for the costs thereof. Any additional requirements for the Project relative to correction of defective work after final acceptance are provided for hereafter in this agreement.

2.17 EXPLOSIVES.

Explosives may be allowed to complete the Project if approved by the Agency and the Engineer, and if additional bonding and insurance is secured. If the use of explosives is proposed, the Contractor shall provide and maintain separate liability insurance in addition to that required in Section 1 and as specified in Section 2.18.

2.18 EXPLOSIVE USE INSURANCE AND REQUIREMENTS

The Contractor shall provide and maintain explosive use insurance covering all risks associated with explosives use, storage and transport as described in this Agreement and not limited to the general categories of direct physical loss, damage or destruction to the work, the site, and nearby persons and property in the amount specified in the Conditions.

The Contractor shall provide and maintain additional, separate explosives use liability insurance as follows:

.1. COVERAGE. Coverage for any and all activities associated with explosives, in addition to and separate from the previously described general liability insurance and its provisions. The explosive use liability policy shall cover all damages resulting from any completed product,

work or ongoing operations related to the Project, including but not limited to: use, storage and transport of explosives; explosion, collapse, and removal of any lateral support. The general liability and explosive use insurance coverage will continue beyond the completion of the Project and will also provide coverage for completed operations liability, products liability, premises liability and blanket contractual liability. Coverage applies to claims for damages including personal injury, bodily injury, death, products liability, and property damage.

Such explosive liability insurance shall indemnify the Contractor, his/her subcontractors and additional insureds against loss from liability imposed by law upon, or assumed under contract by, the Contractor or his/her subcontractors and additional insureds for damages on account of such bodily injury (including death), property damage, personal injury, completed operations, and products liability.

.2. POLICY LIMITS. The Contractor shall maintain explosive use insurance policy limits no less than the following:

Liability. Two million dollars ($2,000,000) per occurrence for bodily injury, death, personal injury, property damage, products liability, blanket contractual liability and completed operations liability.

.3. REQUIRED PROVISIONS. Contractor shall make certain that the explosive use liability policy contains or is endorsed to contain, the following provisions:

A. The Agency and its directors, officers, employees, subcontractors, Engineer, design professionals or authorized agents and volunteers are to be given additional insured status (equivalent to ISO 20 10 11 85 form or, insurer's equivalent if approved in writing by the Agency) with respect to liability arising out of: (i) any and all activities involving explosives, explosive material, including individual associated components, performed by or on behalf of the Contractor; (ii) any use, storage and transport of explosives by or on behalf of the Contractor; (iii) any explosion, collapse, and removal of any lateral support performed by or on

behalf of the Contractor; (vi) any and all construction activities, including work related to the Project and ongoing operations; (v) the completed operations or completed product; (iv) use of premises owned, occupied or used by or on behalf of the Contractor; and (v) use of any vehicles owned, leased, hired or borrowed by or on behalf of the Contractor. The explosive use liability coverage shall contain no special limitations on the scope of protection afforded to the Agency, its directors, officers, employees, subcontractors, Engineer, design professionals or authorized agents and volunteers

B. For any claims related to this Project, the Contractor's insurance shall be the primary insurance with respect to the Agency, and its directors, officers, employees, subcontractors, Engineer, design professionals or authorized agents and volunteers. Any insurance, self-insurance, or other coverage maintained by the Agency, and its directors, officers, employees, subcontractors, Engineer, design professionals or authorized agents and volunteers shall not contribute to any claims related to this Project.

C. Contractor's failure to comply with reporting or other provisions of the insurance policy including breaches of warranties shall not affect coverage provided to the Agency and its directors, officers, employees, subcontractors, Engineer, design professionals or authorized agents and volunteers.

D. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

E. Each insurance policy required by this Agreement shall state, or be endorsed to state, that coverage shall not be canceled by: (i) the insurance carrier, except after 10 days for non-payment of premium or (ii) the Contractor, except after thirty (30) days prior written notice by U.S. mail has been given to the Agency.

F. If the policy is cancelled for any reason, the insurance carrier shall provide written notice of such cancellation within 3 business days to all those named on the Additional Insured endorsements.

G. The Contractor shall waive all rights of subrogation against the Agency, its directors, officers, employees, subcontractors,

Engineer, design professionals or authorized agents and volunteers for any liability arising out of this Agreement.

.4. DEDUCTIBLES AND SELF-INSURED RETENTIONS. Any deductible or self-insured retention must be declared to and approved in writing by the Agency. At the option of the Agency, the insurer shall either reduce or eliminate such deductibles or self-insured retentions.

.5. ACCEPTABILITY OF INSURERS. All of the explosive use insurance liability policies shall be provided through insurance companies with a current A.M. Best financial strength rating of no less than "A-" and a class of no less than "VII" or as otherwise approved in writing by the Agency.

.6. EVIDENCE OF INSURANCE. Prior to execution of the Agreement, the Contractor shall file with the Agency a certificate of insurance (Acord Form 25-S or equivalent) signed by the insurer's representative evidencing the coverage required by this Agreement. Also prior to the execution of this Agreement, the Contractor shall deliver to the Agency: (i) an additional insured endorsement signed by the insurer's representative; (ii) an executed waiver of rights of subrogation against the Agency; and (iii) confirmation that insurance coverage includes or has been modified to include the Required Provisions described above.

The Contractor shall, upon demand of the Agency, deliver to the Agency the complete insurance policy (or policies), including any and all endorsements, and the receipts for payment of premiums, within three business days of such demand.

.7. CONTINUATION OF COVERAGE. If any of the required coverages expire during the term of this Agreement, the Contractor shall deliver the renewal certificate(s) including the general liability, separate explosive use liability, additional insured endorsement and evidence of waiver of rights of subrogation against the Agency to the Agency at least ten (10) calendar days prior to the expiration date.

.8. SUBCONTRACTORS. In the event that the Contractor employs other contractors (subcontractors) as part of the work covered by this Agreement, it shall be the Contractor's responsibility to require and confirm that each subcontractor meets the minimum insurance requirements specified above.

.9. The making of progress payments to the Contractor shall not be construed as creating an insurable interest by or for the Agency or be construed as relieving the Contractor or his/her subcontractors of responsibility for loss from any personal injury, bodily injury, death, physical loss, damage or destruction.

2.19 EXCAVATION OF HAZARDOUS MATERIALS.

If in the course of doing excavation work the Contractor becomes:

(1) Aware or believes that materials have been found that may be hazardous waste as defined in Section 25117 of the Health and Safety Code and is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law; or

(2) Aware of subsurface or latent physical conditions at the site differing from those indicated; or

(3) Aware of unknown physical conditions at the site of an unusual nature, differing materially from those ordinarily encountered and generally recognized inherent in work of the character provided for in the Contract.

Then the Contractor shall notify the Contract Administrator in writing and the Agency shall have a right to investigate the conditions and if in fact the Agency finds that the conditions do materially differ or does involve hazardous waste the Agency shall cause a decrease or increase in the Contractor's cost for the time required for performance of any part of the work and shall issue a change order under the procedures described in the contract. If a dispute arises between the Agency and the Contractor as to any issue, the Contractor shall not be excused from the scheduled completion date

and the performance of the Contract but shall proceed with all work to be performed under the Contract and shall retain any and all rights provided by Contract or by law.

2.20 TRENCH SAFETY PLAN.

In accordance with Section 6705 of the California Labor Code, the Contractor shall submit to the Contract Administrator (or designee) specific plans to show details of provisions for worker protection from caving ground during excavations of trenches of five feet or more in depth. For the purposes of this Project, excavations, trenches, and cofferdams all require equivalent worker protection. The excavation/trench safety plan shall be submitted to the Contract Administrator (or designee) not less than five (5) days prior to design of shoring, bracing, sloping or other provisions to be made for worker protection from the hazard of caving ground. If such a plan varies from the shoring system standards established by the Construction Safety Orders of the California Department of Industrial Relations (Cal/OSHA), the plan shall be prepared by a California registered civil or structural engineer. As part of the plan, a note shall be included stating that the registered civil or structural engineer certifies that the plan complies with the Cal/OSHA Construction Safety Orders, or that the registered civil or structural engineer certifies that the plan is not less effective than the shoring, bracing, sloping or other provisions of the Safety Orders. In no event shall the Contractor use a shoring, sloping, or protective system less effective than that required by said Construction Safety Orders. Submission of this plan in no way relieves the Contractor of the requirement to maintain safety in all areas.

If excavations or trench work requiring a Cal/OSHA permit are to be undertaken, the Contractor shall submit his/her permit with the excavation/trench work safety plan to the Contract Administrator (or designee) before work begins.

2.21 WATER AND AIR POLLUTION REQUIREMENTS.

The Contractor shall implement the following measures to minimize potential impacts on water quality in the Putah Creek: (Inspections by the Agency and its assignees may occur, and adverse conditions must be repaired immediately.)

A. All Contractor fuels, oils, greases, and other petroleum products shall be stored away from the floodplain so that if there is any leakage of such products it will not flow into Creek. A spill control and counter-measures plan completed by the Contractor and Approved by the Contract Administrator will be in place, and monitored as a part of the Storm Water Pollution Prevention Plan (SWPPP). Contractor will provide documentation and other evidence that all on water equipment uses certified biodegradable oils and fluids. In cases where this does not meet warranty requirements, evidence that there is no suitable substitutable fluid must be provided to the Contract Administrator prior to any equipment use. Petroleum containment booms suitable for use on the Creek must be available and clearly marked at the site.

B. All Contractor vehicles and equipment shall undergo periodic inspection and maintenance to minimize the potential of leaks or spills of oils, grease, or hydraulic fluids into the Creek.

C. The excavation of soils adjacent to the Creek shall be stockpiled in suitable locations to prevent erosion and sedimentation from flowing into the canal or other drainage channels following a SWPPP and associated BMPs.

The Contractor shall implement the following measures to minimize potential impacts on air quality: (Inspections by the Agency and its assignees may occur and adverse conditions must be repaired immediately.)

A. Stockpiled or staged soils shall be sprayed with water to prevent blowing dust.

B. Unpaved graded or excavated areas within the proposed Project construction area shall be appropriately sprayed with water, as necessary, to minimize blowing dust.

C. To minimize the deposition of soil on City/County roads the paved areas at all entry and exit sites shall be swept or washed, as appropriate, to remove silt accumulated from construction activities.

D. All construction diesel engines, which have a rating of 50 hp or more, shall meet the Tier-2 California Emission Standards for off-road compression-ignition engines, unless otherwise certified by the Air District's Air Quality Construction Mitigation Monitor (AQCMM). In the event that a Tier II engine is not available, Tier I compliant or 1996 or newer engines will be used preferentially. Older engines will only be used if the AQCMM certifies that compliance is not feasible.

2.22 CULTURAL RESOURCES REQUIREMENTS.

Any locally darkened sediments, concentrations of chipped stone especially obsidian and flint, any shaped stone, circular pits in bedrock, and/or concentrations of bone or shell are found, or any human remains all work in the immediate vicinity of the find(s) shall cease, and the Contract Administrator shall be notified immediately.

2.23 NATIVE HABITAT REQUIREMENTS.

Within the work site there is vegetation that must be protected. Elderberry plants, within the work site greater than (1) inch in diameter shall not be disturbed without written approval by Contract Administrator or Engineer. The known areas with elderberry plants are designated in the Plans. The Contract Administrator or Engineer may flag additional areas or specific plants of concern. A Worker Environmental Awareness Program (WEAP) will be in place to provide protection to this and other plants and animals of regulatory concern. The Contractor will abide by the WEAP at all times.

2.24 PLANS and DRAWINGS.

The following plans and drawings are made a part of these Specifications:

FIGURE NUMBER	TITLE	DRAWING NUMBER
1	Title Sheet and Location Map	1025-01 C1
2	Site Access Plan	1025-01 C2
3	Demolition Plan	1025-01 C3
4	Details	1025-01 C4

SECTION 3

EARTHWORK

3.1 GENERAL.

The earthwork is defined as all work consistent with clearing and grubbing, road rehabilitation, establishing turnarounds and staging area(s), excavating and hauling materials from the borrow sites, and placing the excavated materials in embankments or at locations as shown on the Plans, drawings or described in the Contract Documents.

Please note: Any undermining or other disturbance to Putah Creek Road is prohibited. ***The Contractor is solely responsible for damage to this road, including impacts associated with the removal or displacement of rocks and boulders.***

3.2 CLEARING AND GRUBBING.

All areas of earthwork shall be cleared of brush, rubbish, unmarked trees, and other objectionable material, including those items discovered during borrow development. The soil materials used for the low terrace embankment shall be cleared of all stumps, roots and other objectionable organic and inorganic matter. All cleared and grubbed material shall be stockpiled at locations directed by the Contract Administrator or Engineer, and properly disposed of by the conclusion the Project.

Trees and elderberry shrubs to be left will be marked with flagging. All known elderberry plants within the work area have been mapped and are described in the Plans. All such marked trees and shrubs are to remain undisturbed, with any activities prohibited within a 20' setback from the tree's drip-line. The drip-line is the imaginary projection that extends in plan view around the outer perimeter of the tree canopy, as noted in the Plans. Excavation and grading cannot cause the setback or the area within the drip-line to undermine or otherwise decrease. During grading activities the remaining trees and elderberry plants may be situated on isolated "islands" of native fill, and the Contractor

must ensure that the vegetation does not shift from its existing location or otherwise suffer harm from undermining.

Please note: All elderberry plants greater than one (1) inch in diameter must be protected, and the known plants have been identified in the Plans. Additional plants may be encountered and flagged by the Contract Administrator or Engineer. All elderberry plants mapped on the Plans or flagged must have a 3-foot high orange safety fence surrounding the plant, 20' from the drip-line. Contractor is also responsible to ensure that safety fence remains intact and in place for the duration of all construction efforts. If a fence is damaged it shall be repaired immediately, and if a plant is damaged in any way, the Contractor will immediately notify the Contract Administrator or Engineer. ***The Contractor shall be responsible for any damage to plants and any required mitigation if any plants are damaged by Contractor.*** **Locations and details are provided in the Plans.**

Approval by the Contract Administrator or Engineer of any of the Contractor's operations or methods when clearing and grubbing of the materials shall not relieve the Contractor of his responsibilities provided for in the General Conditions.

3.3 ROAD REHABILITATION.

A series of rough haul roads and staging area(s) already exist at the site. Contractor is to grade roads to provide for safe travel and establish turnarounds, as needed, without impacting elderberry plants or their protective fencing. On the south side of the Western Detention Cell, stockpiled material is available for road rehabilitation, in addition to the material from the bottom of the Eastern Detention Cell.

Parallel to the south bank of Putah Creek, three drainages are located which require culverts to manage flow under the rehabilitated road(s). Contractor is required to engineer, furnish and install (F&I)

necessary culvert crossings. *The culverts will remain after the Project completion.*

The native soil materials presently within the Eastern Detention Cell and staged along the south side of the cells along the toe of the South Putah Creek Road embankment, shall be used to provide any additional material required to construct or otherwise rehabilitate the haul road and staging areas. The road will then be used to access the adjacent Northern and Western Detention Cells and to provide an operating road for bringing in any additional fill from these cells as required to complete a low terrace embankment.

3.4 BORROW EXCAVATION.

Borrow for this Project will only be obtained from locations identified or sources approved by the Contract Administrator or Engineer. Borrow excavation may be made by carryall, scraper, or equipment optional to the Contractor insofar as neat uniform excavation lines are maintained at the borrow sites. The existing borrow material in Putah Creek Flats will be used to build the construction road (Primary Borrow Sites: Eastern, Western, and Northern Detention Cells), as necessary. Fill material shall be excavated and hauled from the bottom of the East Detention Cell, the West Detention Cell, and the North Detention cell, in that order. The Contract Administrator or Engineer may direct that fill material removal from a given borrow area is complete or temporarily on hold, and that removal activities need to progress other areas or other areas concurrently.

The crest height of the northern berm associated with the existing Northern Detention Cell shall remain at its current elevation to prevent Putah Creek flows from flowing directly into the site. As noted in the plans, portions of other interior berms (not the northern berm) may be removed under the Engineer's direction, but the overall height and sufficient material to support that height may not be altered without written approval from Contact Administrator or Engineer. For example, berms cannot be excavated such that the peak of the berm collapses, thus lowering the overall crest.

The interior slope of the detention cells final configuration must retain an angle of equal to or between 2:1 and 3:1, upon conclusion of the borrow activity. The maximum allowable depth of excavation shall be limited to when groundwater is encountered. Internal levee features bisecting the East and West Cells north to south are to remain intact, unless the Contract Administrator or Engineer directs otherwise in writing. The base of the borrow area(s) is to be graded level, from each toe of the levee or interior berm.

Ramps may be created to access the bottom of the borrow areas-detention cells and for initial access along the creek in the location noted in the Plans to construct an embankment via the lower terrace. Water trucks shall be available and used to provide required dust control. The construction entrance, haul roads, culverts, and ramps in and out of the cells are to remain after construction.

3.5 LOW TERRACE EMBANKMENT

A low terrace embankment may be constructed to provide equipment access to and from the dam for demolition and removal of the structure. The embankment may also be utilized for on-site disposal of processed concrete rubble, as detailed in the Plans.

The low terrace embankment can extend from the staging area on Putah Creek Flats to the south-eastern end of the Percolation Dam (see Plans) and can be no more than 20 feet wide at the water surface. The embankment will require structural support sufficient to maintain its shape and stability for equipment access to the Dam during the demolition and removal phase. If equipment access is not needed to the Dam and an embankment is intended for on-site disposal of processed concrete rubble only, the embankment need only require sufficient structural support to ensure the stability of the underlying debris materials, warrantied by the Contractor. In all cases, if an embankment is constructed it must provide water quality protection to the creek during and after the Project is complete.

The embankment shall be built only of materials approved by the Contract Administrator or Engineer and shall be free of all roots, brush, objectionable organic matter and rocks larger than six inches (6") in diameter. As they become available, processed Dam materials may be placed in the embankment, but not in the upper 4' of the feature and preferably at the lowest practical elevation. The finished grade of the upper surface of a low terrace embankment shall be evenly sloped at 5% to the water surface.

If a low terrace embankment is not necessary to complete the Project per Contractor's chosen methodology, then the Contractor can remove all Dam material, associated rubble, and fragments from the site and dispose of them appropriately without processing. Onsite disposal of processed, clean Dam materials at locations other than a low terrace embankment, such as a disposal trench or pit, may be considered by the Contract Administrator or Engineer. Alternate means of onsite disposal will be governed by the same cover requirements and following placement and compaction standards as with an embankment.

Additional details associated with the structural requirements of a low terrace embankment are provided in Section 5.2. Since the final methods to construct a low terrace embankment plan are to be established, Contractor will coordinate closely with the Engineer to establish the number of passes by the appropriate equipment or other compaction techniques to achieve the necessary compaction for a constructed terrace and its backfill.

Unless otherwise specified by the Engineer, fill materials shall be deposited in horizontal layers of not more than twelve inches (12") thick. Prior to and during compaction, the materials shall have the optimum moisture content required for the purpose of compaction and the moisture shall be uniform throughout each layer. If the moisture content is less than optimum for compaction (above the free water surface), the compaction operations shall not proceed, except with the specific approval of the Contract Administrator or

Engineer, and if the moisture content is greater than optimum for compaction, the compaction operations shall be delayed until such time as the material has dried to the optimum practicable moisture content, and no adjustment in price will be made on account of any operation of the Contractor in drying the materials or on account of delays occasioned thereby. When the material has been conditioned as hereinbefore specified, it shall be compacted by heavy equipment, of sufficient weight for proper compaction, or other equipment approved by the Contract Administrator or Engineer. The density (dry) of the compacted material shall be at least ninety percent (90%) of the laboratory standard maximum soil density (dry), as determined by the Contract Administrator or Engineer. The observation and compaction tests will be performed by the Contract Administrator or Engineer or their agents. The laboratory standard maximum soil density (dry) will be determined in accordance with ASTM Test Method D-1557 where practicable, or by Agency or Engineer representatives observing the placement and compaction.

As noted in the SWPPP (Section 6): activities shall not cause turbidity increases in surface water:

(a) where natural turbidity is between 0 and 5 Nephelometric Turbidity Units (NTUs), increases shall not exceed 1 NTU;

(b) where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent;

(c) where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs;

(d) where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.

Except that these limits will be eased during in-water working periods to allow a turbidity increase of 15 NTU over background turbidity as measured in surface waters 300 feet downstream from the working area. Activities shall not cause settleable matter to exceed 0.1 milliliters/liter in surface waters as measured in surface waters 300 feet downstream from the Project.

The Central Valley Regional Water Quality Control Board 401 Certification for this Project may have additional specific monitoring parameters that must not be exceeded. The Agency or its agents may collect water samples to confirm compliance with the certification. If a water quality parameter is exceeded or conditions likely to cause an exceedance are created or becomes otherwise apparent to the Agency during the construction, additional countermeasures must be taken by the Contractor in accordance with the provisions in the SWPPP. The Contractor is responsible to remain at all times in compliance with the 401 Certification requirements.

3.6 MEASUREMENT AND PAYMENT.

Measurement and payment terms for Earthwork elements described are divided among activity line items across work Categories A., C., and E.

Costs for labor, materials, and equipment to develop work site and borrow area access, clearing and grubbing, F&I elderberry fencing, design and F&I culverts, establishing staging and stockpiling areas, and any necessary traffic control measures throughout performance of work, are included in Category A. Mobilization. Payment for activities under Category A will be made at the sub-total lump sum, less retention and in accordance with the General Conditions, at the completion of all elements of Category A, except for Item A.3. Clear and Grub and A.4. F&I Traffic Control Measures which will be paid 50%, less retention, of the lump sum price upon completion of all elements of Category A., and the remaining 50%, less retention, upon conclusion of all elements of Category F. De-Mobilization. Development of the borrow access roads will be required regardless of Contractor's methodology to complete the Project.

Category C. Lower Floodplain Terrace/Dam Access, includes the initial borrow excavation, overhaul, foundation preparation, F&I support feature, placing and compacting the material in embankments and support structure, as necessary.

The unit price to Place/Compact embankment back-fill material (Item C.10) shall include all labor, materials, and equipment for borrow excavation and overhaul of native borrow for embankment backfill and support feature in-fill, staging, placement and compaction of the back-fill material within the embankment only (not including support feature in-fill), required trimming of banks, and road embankment boulder removal and retention, as necessary. Payment for activity Item C.10 will be made as a lump sum, less retention and in accordance with the General Conditions, upon completion of that activity. If a low terrace embankment is not proposed, Item C.10 will be voided.

Category E. Lower Floodplain Terrace Final Grading includes the on-site placement and compaction of processed dam material and the final soil fill cap layer, and surface preparation to ensure that the final graded surfaces, to meet the Plan details, matching natural adjacent contours and sloping requirements. The Contractor will complete the preparation by ensuring that no debris remains, there are no blade or drag scars, mounds, furrows, or soil dumps, or other non-natural appearing features.

The unit price for on-site placement recycled dam material (Item E.15) shall include the cost of all labor, materials, and equipment for loading and overhaul of processed rubble from the staging area to the embankment, placement and compaction, as needed, of clean concrete rubble material within the embankment back-fill. Payment for activity Item E.15 will be made as a lump sum, less retention and in accordance with the General Conditions, upon completion of the activity. If on-site disposal of clean processed concrete rubble is not proposed, Item E.15 will be voided.

The unit price to Place final soil fill cap layer (Item E.16) shall include the cost of all labor, materials, and equipment for excavation, staging, overhaul, placement and compaction, as needed, of native borrow, surface preparation, and final trimming and grading of an embankment and area used to access the embankment. Any cost

associated with replacement of any embankment boulders disturbed and retained during performance of activity Item C.10, shall also be included. Payment for activity Item E.16 will be made as a lump sum, less retention and in accordance with the General Conditions, upon completion of the activity. If a low terrace embankment is not proposed, Item E.16 will be voided.

SECTION 4

PERCOLATION DAM DEMOLITION AND REMOVAL

4.1 GENERAL.

Demolition is defined as the activities involved with the removal of the dam structure and the associated preparation of the material for use as clean fill.

4.2 REQUIREMENTS.

The intent is for complete removal Dam structure. As there are no known plans or as-built drawings for the Percolation Dam (Dam), the Contractor is advised to complete a simple coring assessment of the structure to assess the structure and ultimate depth of the Dam. All activities must stay out of the active stream channel, with the exception of the Dam demolition and the potential creation of a low terrace embankment if proposed.

The South bank abutment is comprised of a vertical concrete buttress, and what appears to be a cast block at its base, that form the southern end of the Dam. This feature will provide a consistent, accessible level surface that will remain until the final phase of dam removal. The uppermost (top) flush surface of the cast block (as shown in the Plans) will be the point of reference for vertical and horizontal measurement of progress. A temporary benchmark (TBM) will be established in the field.

In the vertical dimension, the Dam is to be removed completely, including all footings; or, to a depth of 20 feet (as measured from the TBM to the highest remaining most vertical element of the dam), which ever occurs first, for successful completion. If at the Contract Administrator's sole discretion, the 20-foot vertical extent of the percolation dam cannot be removed completely, any approved remnant of the structure left shall be ground smooth so that no rebar extends from the remaining material and there are no protruding

faces in the concrete beyond ¾" of the plane of the remaining surface.

In the horizontal dimension, the Dam is to be removed completely, beginning from the north end. The full horizontal extent for successful completion is **150** feet as measured from the TBM. If at the Contract Administrator's sole discretion, the southern end of the percolation dam cannot be removed completely, the remaining end surfaces will be ground smooth to so that no rebar extends from the remaining structure and there are no rebar or other protruding faces in the concrete beyond ¾" of the plane of the remaining surface.

If the concrete material is removed offsite for suitable disposal, further processing is not required. If the Contractor selects any form of onsite disposal, such as in gabions or within the low terrace embankment or other means, the Dam material must be processed into suitable clean rubble such that all rebar is removed and final product is sized to – 6-inch diameter. The Contract Administrator or Engineer may reject, at their discretion any processed material deemed unsuitable from placement within the low terrace embankment or anywhere on-site.

Dam material must not be cast off into the stream or left exposed in any location, unless directed otherwise by the Contract Administrator or Engineer. Material processing, placement, and all stages of Dam demolition can be inspected by the Agency and its representatives at any time. The Contractor shall be responsible to remove from the site and properly dispose of all rebar, other unsuitable fill material, or concrete at his expense.

Particular care by the Contractor must be taken to not destabilize the South Putah Creek road embankment above the abutment, including disturbing boulders that may provide support for the road. **Please note:** Any undermining or other disturbance to Putah Creek Road is prohibited. *The Contractor is solely responsible for damage to this*

road, including impacts associated with the removal or displacement of rocks and boulders.

4.3 MEASUREMENT AND PAYMENT.

Measurement and payment terms for Percolation Dam Demolition and Removal elements are divided among activity line items under work Category D.

The bid payment for Dam Demolition (Item D.12) shall include the cost of all labor, materials, and equipment for demolition, debris collection, and any necessary permits, safety features and additional liability insurances required associated with demolition technique authorized for employment.

The Dam Demolition shall be paid for at the applicable lump sum bid therefore in the schedule Item D.12, Dam Demolition, less retention and in accordance with the General Conditions, upon successful completion in accordance with the performance standards described.

If the Contractor fails to remove the full extent of the Dam, the following requirements apply:

- If less than 75% (15 feet) of the intended full vertical extent (20 feet) of the structure is removed (measured from the TBM to the highest remaining most vertical element of the dam), no payment for Item D.12 shall be made.

- If less than the full intended vertical extent (or 20 feet), but more than 15 feet of the Dam is removed, the amount of payment will be reduced by the percentage of the vertical extent left in place. For example, if after cleaning of remnant, measurement from the TBM to the tallest point of the remnant structure shows that only 18 feet of the intended full vertical extent has been removed, with 2

feet (or 10% of the original height) remaining, then the lump sum for Item D.12 will be reduced by 10%.

- If less than 80% (**120** feet) of the intended full horizontal extent (**150** feet) of structure is removed, measured from the TBM, no payment for Item D.12 shall be made.

- If less than the intended full horizontal extent is removed, the lump sum will be reduced by the remaining percentage of the length.

- If more than 80% is removed, but less than the intended full horizontal extent, the lump sum will be reduced by the remaining percentage of the length. For example, if 5% of the length measured from the plane of the northern face of the South Bank buttress (TBM) to the most northern projection remains, the lump sum for Item D.12. will be reduced by 5%.

- If remnant portions of the Dam remain less than 20% of the intended full horizontal extent *and* less than the 25% intended full vertical extent remain, conjunctively, the more stringent of the two requirements (the lesser Contractor payment) will stand. For example, if 19% of the horizontal extent remains, and 24% of the vertical extent remains, the Contractor shall only receive payment for 76% of the lump sum for the Item D.12.

- If significant portions of the Dam remain in fragments within the channel, no payment shall be made for Item D.12. For example, if the Dam was demolished using explosives, all Dam remnants greater than 6 inches in diameter must be removed and processed. If the Dam fragments into blocks or other fragments that cannot be retrieved, at the sole discretion of the Contract Administrator partial payment for the Item will be made. If

the Contractor chooses not to retrieve the blocks or fragments, no payment shall be made for this item.

The complete removal of the Dam is the primary purpose of the Project. Dam remnants left in the channel are not compliant with the purpose of the project.

In the event that any remnant of the structure remains, measurement for payment of the cleaning and finishing of the remnant concrete surface (Item D.14), in accordance with the performance standards described, shall be made based on the square footage of concrete surface area requiring cleaning as determined necessary by the Contract Administrator or Engineer. The bid price for D.14 shall include the cost of all labor, materials, and equipment for satisfactory completion as determined by the Contract Administrator or Engineer. Payment for D.14 will be at the applicable unit price per square foot in the schedule upon successful completion of the activity, less retention and in accordance with the General Conditions.

Item D.13 is intended to cover payment for all proposed Dam material haul and process Concrete Material and waste disposal methods, regardless of on-site or off-site disposal methodology, and includes the specific activities described here, including the cost of all labor, materials, and equipment for overhaul handling, and staging of unprocessed Dam debris to processing area or to offsite disposal, handling and processing of dam demolition debris into clean concrete rubble in preparation for placement within back-fill of embankment or other approved means of containment or disposal, any staging of processed rubble, and disposal of generated refuse. Payment for D.13 shall be made based upon the actual amount of Lineal Foot of Dam removed, including any penalty if warranted, as specified above, at the applicable Linear Foot bid price therefore in the schedule D.13 less retention and in accordance with the General Conditions, upon completion of the activity.

SECTION 5

GABION OR OTHER LOW TERRACE SUPPORT REQUIREMENTS

5.1 GENERAL.

The low terrace embankment is an optional feature that can be created by the Contractor along the lower face of the south bank of Putah Creek. The feature, if developed, may provide equipment access to the dam, if necessary, for demolition activities and can be utilized to dispose of clean processed concrete rubble. If a low terrace embankment is created, the completed low terrace embankment must remain as a stable stand-alone feature after Project completion.

5.2 REQUIREMENTS.

The low terrace embankment can extend from the staging area on Putah Creek Flats to the south-eastern edge of the Percolation Dam (see Plans) and can be no more than 20 feet wide at the water surface. The embankment will require structural support to maintain its shape and stability for equipment access to the Dam during the demolition and removal phase, and provide water quality protections the creek during and after the Project is complete.

Additional performance requirements for the construction of a low terrace embankment include ensuring backfill or top cap materials do not spill or pipe into the channel such that potential for a violation of the Water Quality Certification 401 permit is created, and that erosion on the face of the low terrace embankment structure is minimized. Gabions are a standard means of achieving these performance requirements. The Plans describe standard wire gabions for illustration purposes.

Contractor is to provide submittals and engineered shop drawings, within 14 days upon receipt of the Notice to Proceed, describing the means of achieving these requirements, including gabion designs if

selected by the Contractor. The submittals shall be prepared by a California-licensed civil engineer, who by education and training has competency in geotechnical engineering and must include technical details, including design and installation specifications, to show that the proposed design meets or exceeds the standard gabion design (including proposed gabion designs). The support feature plans and specifications will be subject to review and approval by the Agency and Engineer, and should have a Quality Control component that specifies appropriate structural material type and quality, and any backfill material requirements, including appropriate tieback material, design and location(s) material quality to determine compliance with the performance specification. Representative material samples must be provided to the Engineer upon request.

The infill and backfill material for gabions or alternate means will come from the borrow area and must meet the gabion/alternate design and installation specifications per the manufacturer and/or Engineer, including foundation/base preparation, batter and sloping, attachment specifications, backfill compaction, and number and placement of appropriate tie-backs as specified by the manufacturer or engineer to handle intended loading and meet performance requirements. Clean processed concrete material may also be used as back-fill where suitable and appropriate as specified herein.

As the final methods for a low terrace embankment plan are not established, Contractor will coordinate closely with the Engineer to establish the number of passes by the appropriate equipment or other compaction techniques to achieve the necessary compaction for the terrace and its backfill. General requirements for backfill are included in Section 3.5.

5.3 MEASUREMENT AND PAYMENT.

The unit price to F&I and fill Gabion Baskets or equivalent (Item C.9) shall include the cost of all labor, materials, and equipment for their successful emplacement and completion, including but not limited to foundation preparation, tie-backs or other supports, support

structure staging and installation, placement of fill within the feature, compaction of in-fill if necessary, and adding water for compaction. Any design and plan costs associated with the support feature shall also be included in Item C.9.

Measurement for payment of the support feature, Item C.9, shall be made based on the actual installed lineal footage upon completion of furnishing and installing the support feature. Payment for Item C.9 will be made at the applicable unit price per lineal foot installed, per the schedule, less retention.

SECTION 6

EROSION CONTROL FACILITIES

6.1 GENERAL.

The Agency will submit, as required, a Notice of Intent for a Storm Water Pollution Prevention Plan (SWPPP) for the Project. The Contractor shall provide any and all measures (including Best Management Practices [BMPs]) required to meet the Central Valley Regional Water Quality Control Board (CVRWQCB) 401 water quality Certification and California Department of Fish and Game 1600 series permit. Measures beyond those described in the Plans or this Specification may be required to ensure compliance with the permit(s) and are not subject to the schedule and are the financial responsibility solely of the Contractor. Contractor assumes all risks and costs associated for non-compliance.

The SWPPP and BMPs will be put into place as soon as site access is secured by the Contractor. Water Quality (WQ) Contingency BMPs may also be required to be implemented immediately depending on the Contractor's proposed plan. Contractor is required to note the proposed sequence of implementation of individual and WQ Contingency BMPs in his proposal.

6.2 REQUIREMENTS.

The Contractor shall maintain a copy of the SWPPP on the work site during working hours, and comply with all the provision of the SWPPP. An Erosion Control Plan for the Project is included in the Plans. The Erosion Control Plan provided in the plans is intended as a minimum guideline. The Contractor shall provide and maintain Best Management Practices for full compliance with the National and State permits. Representatives of Agency, the State Water Resources Control Board (SWRCB) and/or the Central Valley Regional Water Quality Control Board (CVRWQCB), upon presentation of proper credentials, will have the right to inspect the construction site to review erosion/sediment controls in place.

Standard BMP details and locations are provided in the Plans and are to be followed as described. Any modification to the type or construction of these BMPs must be agreed upon in writing by the Contract Administrator or Engineer before implementation. A gravel bag and fabric silt barrier is required to be installed at the w-weir, as shown in the Plans. The bags (typical dimension of 17" by 26") will be placed such that clean water will flow through the bags, but silt transport is minimized. The Contractor can use local materials from the stockpiles to fill the bags, but is responsible for ensuring that the material size and grading is appropriate for the bags and for effective filtration. Under no circumstance is the contractor allowed to use material that is finer than the bag mesh, such as silt. Contractor is responsible for maintenance of this and all other emplaced BMPs. Upon completion of their use and removal, Contractor shall be responsible to ensure that removal activities shall not cause turbidity increases in surface water following the requirements of the 401 Certification.

Depending on the Contractor's selection of the percolation dam removal technique (and effectiveness of material placement for a low terrace embankment, if proposed), an in-stream silt curtain or equivalent barrier may be required by the Contract Administrator or Engineer and/or regulatory authorities (In-stream BMP I.). The design of this barrier must be approved by the Engineer. A second silt curtain or equivalent barrier near at the w-weir (In-stream BMP II.) may be also be required if the primary barrier ((In-stream BMP I.) is not sufficient to meet the technical performance standards provided in the 401 Certification. The design of this secondary barrier must also be approved by the Engineer.

The Contractor shall also implement the following source control Best Management Practices (BMPs) to prevent the discharge of all products of erosion and construction pollution from moving offsite:

A. Spill Control Plan-All Contractor fuels, oils, greases, and other petroleum products shall be stored away from existing drainage swales or slopes leading to the water, so that if

there is any leakage of such products they will not flow into any drainage channels discharging to Putah Creek.

B. All Contractor vehicles and equipment shall undergo periodic inspection and maintenance to minimize the potential of leaks or spills of oils, grease, or hydraulic fluids.

C. The Contractor shall prevent excavated soils from the construction from eroding and flowing into drainage channels discharging from the site at all times. The Contractor shall install silt fences, fiber rolls, straw bale barriers and/or other sediment traps, as approved by the Engineer, to prevent sediment from flowing into Putah Creek or any surface channels or swales. Please note that the CDFG 1600-series Agreement specifically precludes the use of plastic monofilament or jute netting.

D. Contractor must properly implement, maintain and monitor the erosion control devices during the duration of the Project.

The Contract Administrator or his representative can make inspections, including pre- and post storm, to assure that the BMPs have functioned adequately and whether additional modification to the BMPs is required to address erosion issues. The Contractor will take all responsible steps necessary to modify and improve the installed erosion control facilities as required that fail to provide the required protection.

E. Stockpiled soils shall be sprayed with water to prevent blowing dust during the dry season, and unpaved graded or excavated areas within the proposed construction area shall be appropriately sprayed with water as needed to minimize blowing dust. Visible dust will be considered non-compliant with this section.

F. The exit and entry locations from the construction area onto paved roads shall be swept and/or washed as appropriate to remove soils accumulated from the construction activities. Excess soils shall be cleaned up and hauled off on a daily basis.

Activities shall not cause turbidity increases in surface water:

(e) where natural turbidity is between 0 and 5 Nephelometric Turbidity Units (NTUs), increases shall not exceed 1 NTU;
(f) where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent;
(g) where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs;
(h) where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.

Except that these limits will be eased during in-water working periods to allow a turbidity increase of 15 NTU over background turbidity as measured in surface waters 300 feet downstream from the working area. Activities shall not cause settleable matter to exceed 0.1 milliliters/liter in surface waters as measured in surface waters 300 feet downstream from the Project.

Requirements for restoring the staging area(s) and any borrow areas developed (Item F.19) include all activities need to matching natural adjacent contours and sloping requirements for the berms as described in the Plans and Section 3.4 Borrow Excavation, or as directed by the Engineer or the Agency. The Contractor will complete the preparation by ensuring that no debris remains, there are no blade or drag scars, mounds, furrows, or soil dumps, or other non-natural appearing features.

6.3 MEASUREMENT AND PAYMENT.

Measurement and payment terms to F&I Erosion Control elements are divided among activity line items under work Category B. Removal of

Erosion Control Facilities and Work-site restoration are divided among activity line items under work Category F. F&I, and removal of specified additional water quality protection measures are under work Category G.

The preparation and installation of the SWPPP BMP and erosion control measures shall be paid for at the applicable price bid therefore in the schedule, Category B. Erosion Control upon completion of all elements of that category, less retention and in accordance with the General Conditions. The prices shall include the costs for equipment, labor, and materials to install at the beginning of construction and maintain during all work phases (including any shutdowns) for all silt fences (B.5 per installed Linear Foot), fiber roll (B.8 per installed Linear Foot), gravel bag barrier (B. 6 per installed bag), construction entrance (B.7 as a Lump Sum). Payment for installed elements of Category B will be made as the per foot or lump sum as described in the appropriate Item in the Schedule, less retention and in accordance with the General Conditions, at the completion of all applicable elements of the Category B. No additional payment will be made for Contract's failure to maintain erosion control facilities or for additional requirements from failing to meet 401 Certification requirements and any other impacts to water quality.

Category F. Demobilization: the unit prices shall include the cost for all materials, labor and equipment for removing and disposal as needed, at the conclusion of construction, silt fences (Item F.17) as directed by the Contract Administrator or Engineer, all gravel bag barriers (Item F.18), and all other work and materials (excluding Construction Entrance, Fiber Roll, and In-stream BMP I and II) required to prevent the discharge of sediment and construction pollution into Putah Creek and existing drainage channels.

Restoring the staging area(s) and any borrow areas developed shall include the cost of all labor, materials, and equipment for excavation, staging, overhaul, placement and compaction, as needed, of native borrow, surface preparation, and final trimming and grading, and shall be paid for at the applicable lump sum price bid (Item F.19) therefore in

the schedule upon satisfactory completion of restoration, less retention and in accordance with the General Conditions.

The construction entrance installed per Item B.7 and Item B.8 Fiber Roll shall remain after Project completion. The Agency may desire to leave in place any, all, or portions thereof of the installed BMP materials. If that is the case, the Contract Administrator will deduct the relevant Item cost, per the schedule, from the Demobilization payment.

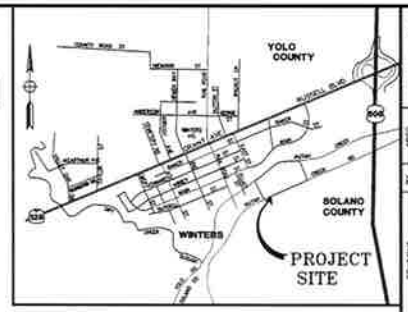
Category G. Water Quality Contingency: In-stream BMP I may be required to be installed upon request by the Contract Administrator or Engineer. If requested, Contractor shall be paid for installation of this feature at the applicable lump sum price bid (Item G.20) therefore in the schedule upon completion of installation, less retention and in accordance with the General Conditions. Removal of this feature and restoration of the channel to pre-existing conditions shall be paid for at the applicable lump sum price bid (Item G.22) therefore in the schedule upon satisfactory completion of restoration, less retention and in accordance with the General Conditions.

Additional Item Category G. Water Quality Contingency: In-stream BMP II may be required to be installed upon request by the Contract Administrator or Engineer. If requested, Contractor shall be paid for the installation of this feature at the applicable lump sum price bid (Item G.21) therefore in the schedule upon completion of installation, less retention and in accordance with the General Conditions. Removal of this feature and restoration of the channel to pre-existing conditions shall be paid for at the applicable lump sum price bid (Item G.23) therefore in the schedule upon satisfactory completion of restoration, less retention and in accordance with the General Conditions.

If the Contractor was required to install any additional or supplemental BMPs outside of the Schedule Items, the Contractor is also required to remove and if necessary dispose of the item/material and rehabilitate the site to original condition at his own cost.

IMPROVEMENT PLANS
FOR
PUTAH CREEK FLOODPLAIN RESTORATION & PERCOLATION DAM REMOVAL

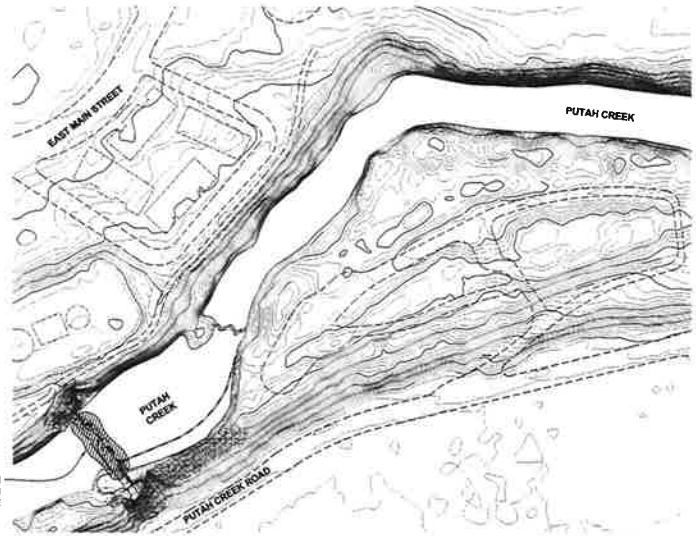
LOWER PUTAH CREEK COORDINATING COMMITTEE, YOLO COUNTY
CALIFORNIA
MAY 2009



VICINITY MAP
N.T.S

LEGEND

- EXISTING INDEX CONTOUR
- EXISTING INTERMEDIATE CONTOUR
- PROPOSED INDEX CONTOUR
- PROPOSED INTERMEDIATE CONTOUR
- EXISTING PERCOLATION DAM TO BE REMOVED
- EXISTING PERCOLATION DAM TO REMAIN
- GABION BACK STOP
- EXISTING ROAD
- EXISTING DIRT TRAIL
- EXISTING RIP RAP
- EXISTING TREE
- EXISTING VEGETATION
- TYPICAL SECTION (A / 3)
- EXISTING FENCE
- EXISTING ELDERBERRY
- PROTECTIVE CONSTRUCTION FENCING



SITE MAP
1"=90'

SHEET INDEX

1. TITLE SHEET
2. SITE ACCESS PLAN
3. DEMOLITION PLAN
4. DETAILS

GENERAL NOTES:

1. IF HUMAN SKELETAL REMAINS ARE ENCOUNTERED DURING EXCAVATION, OR IF ANY CULTURAL RESOURCES, SUCH AS CHIPPED OR GROUND STONE, HISTORIC DEBRIS, BUILDING FOUNDATIONS, OR PALEONTOLOGICAL MATERIALS ARE ENCOUNTERED DURING EXCAVATION, CONTRACTOR SHALL FOLLOW THE GUIDELINES OUTLINED IN THE DEQA DOCUMENTS.
2. CONSTRUCTION CONTRACTOR AGREES THAT IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, CONSTRUCTION CONTRACTOR WILL BE REQUIRED TO ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THIS PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY, THAT THIS REQUIREMENT SHALL BE MADE TO APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND CONSTRUCTION CONTRACTOR FURTHER AGREES TO DEFEND, INDEMNIFY AND HOLD DESIGN PROFESSIONAL HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPTING LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF DESIGN PROFESSIONAL.
3. CUNNINGHAM ENGINEERING CORPORATION HAS EXERCISED A REASONABLE AND ACCEPTABLE STANDARD OF CARE IN THE PREPARATION OF THESE PLANS, HOWEVER, THE DESIGN PROCESS INCLUDES ACTIVITIES OCCURRING AFTER PLAN SIGNATURE. THESE ACTIVITIES INCLUDE CALCULATIONS, PLAN CHECK AND VERIFICATIONS DURING CONSTRUCTION. SHOULD PERSONS OTHER THAN CUNNINGHAM ENGINEERING CORPORATION PERFORM THE CONSTRUCTION STAKING OPERATION, THEY SHALL INDEMNIFY CUNNINGHAM ENGINEERING CORPORATION FROM ANY DAMAGES RESULTING FROM FAILURE TO PERFORM THESE TASKS OR ANY EXPENSE OR DAMAGE RESULTING FROM OMISSION OR ERROR CONTAINED IN THE PLANS WHICH WOULD REASONABLY HAVE BEEN DISCOVERED AND CORRECTED BY CUNNINGHAM ENGINEERING CORPORATION.
4. UNAUTHORIZED CHANGES & USES: THE ENGINEER PREPARING THESE PLANS WILL NOT BE RESPONSIBLE FOR, OR LIABLE FOR, UNAUTHORIZED CHANGES TO OR USES OF THESE PLANS. ALL CHANGES TO THE PLANS MUST BE IN WRITING AND MUST BE APPROVED BY THE PREPARER OF THESE PLANS.
5. THE GRADING OF FINAL SLOPES, THE REPLACEMENT OF SOIL, AND ASSOCIATED EROSION CONTROL MEASURES SHALL TAKE PLACE PRIOR TO OCTOBER 15, TO REDUCE THE POTENTIAL FOR EROSION.

ABBREVIATIONS

AB	AGGREGATE BASE	GB	GRADE BREAK	PUE	PUBLIC UTILITY EASEMENT
AGG	AGGREGATE	GV	GATE VALVE	PVMT	PAVEMENT
ASTM	AMERICAN SOCIETY FOR TESTING AND MATERIALS	GALV.	GALVANIZED	R	RADIUS
AWWA	AMERICAN WATER WORKS ASSOCIATION	HC	HANDICAP	R/W	RIGHT OF WAY
ANG. PT.	ANGLE POINT	HDPE	HIGH DENSITY POLYETHYLENE	RD	ROAD
AC	ASPHALT CONCRETE	HP	HIGH POINT	RP	RADIUS POINT
BC	BEGINNING OF CURVE	HPS	HIGH PRESSURE SODIUM	RCP	REINFORCED CONCRETE PIPE
BLVD.	BOULEVARD	HORIZ.	HORIZONTAL	RT	RIGHT
BLDG	BUILDING	INTX	INTERSECTION	S	SLOPE, SEWER, SOUTH, SANITARY LINE
BOC	BACK OF CURB	INV, IE	INVERT ELEVATION	SB	SIGNAL PULL BOX
BOW, B/W	BACK OF WALK	IRR	IRRIGATION	SD	STORM DRAIN
BOV	BLOW OFF VALVE	L	LENGTH	SERV	SERVICE
BMP	BEST MANAGEMENT PRACTICES	LD	LANDSCAPE DRAIN	SF	SQUARE FEET
CC	CENTER ON CENTER	LF	LINEAL FEET	SHT	SHEET
CIPCP	CAST-IN-PLACE CONCRETE PIPE	LIN	LANE	SPEC	SPECIFICATION
CL	CENTERLINE, CLASS	LP	LOW POINT	SS	SANITARY SEWER
C.O.	CLEAN OUT, COMPANY	LT	LOT?	ST	STREET
CONC.	CONCRETE	LTB	LIME TREATED BASE	STA	STATION
CONST	CONSTRUCT	MAX	MAXIMUM	STD	STANDARD
CORP.	CORPORATION	MH	MAINTENANCE HOLE	STE	SUITE
CP	CONCRETE PIPE	SDMH	STORM DRAIN MAINTENANCE HOLE	SUBD.	SUBDIVISION
CR	CURB RETURN	SSMH	SANITARY SEWER MAINTENANCE HOLE	S.L.	STREET LIGHT
CT	COURT	MIN	MINIMUM	S/W	SIDEWALK
D	DRAIN LINE	N	NORTH	TA	TOP OF APRON
DI	DRAIN INLET	NG	NATURAL GROUND	TBD	TO BE DETERMINED
DIP	DUCTILE IRON PIPE	N.I.C.	NOT IN CONTRACT	TBW	TOP BACK OF WALK
DR.	DRIVE	NO	NUMBER	TC	TOP OF CURB
DT	DRAINAGE TILE	NPTC	NOT PART OF THIS CONTRACT	TI	TRAFFIC INDEX
D/W	DRIVEWAY ENTRANCE	NTS	NOT TO SCALE	TPM	TENTATIVE PARCEL MAP
E	EAST, ELECTRIC	OC	ON CENTER	TRANS	TRANSITION
EA.	EACH	OHE	OVERHEAD ELECTRIC	TV	TELEVISION
EP	END OF CURVE	PB	ELECTRIC PULL BOX	TYP.	TYPICAL
ELEV, EL	ELEVATION	PCC	PORTLAND CEMENT CONCRETE,	USGS	UNITED STATES GEOLOGICAL SURVEY
E.P.	EDGE OF PAVEMENT		POINT OF COMPOUND CURVE	VC	VERTICAL CURVE
ESMT.	EASEMENT	PED	PEDESTAL, PEDESTRIAN	VCP	VITRIFIED CLAY PIPE
ETC.	ETCETERA	PI	POINT OF INTERSECTION	VERT.	VERTICAL
EXIST, EX.	EXISTING	PG&E	PACIFIC GAS & ELECTRIC COMPANY	W	WEST, WATER
FF	FINISHED FLOOR	PKWY	PARKWAY	WM	WATER MAIN
FH	FIRE HYDRANT	PL	PROPERTY LINE, PLACE	WTR	WATER
FIN	FINISH	POC	POINT OF CONNECTION	W/	WITH
FL	FLOW LINE	PRC	POINT OF REVERSE CURVE	XING	CROSSING
FM	FORCE MAIN	PSI	POUNDS PER SQUARE INCH		
FOC	FACE OF CURB	PT	POINT, POINT OF TANGENCY		

CLIENT:
SOLANO COUNTY WATER AGENCY
P.O. BOX 349
ELMIRA, CA 95625
(530) 902-1794

CIVIL ENGINEER:
CUNNINGHAM ENGINEERING CORP.
2940 SPAFFORD STREET, SUITE 200
DAVIS, CALIFORNIA 95618
(530) 758-2026

PROPERTY OWNER:
CITY OF WINTERS
318 FIRST STREET
WINTERS, CA 95694
(530) 795-4910

ENVIRONMENTAL/ GEOTECHNICAL ENGINEER:
WALLACE-KUHL & ASSOCIATES INC.
3050 INDUSTRIAL BOULEVARD
WEST SACRAMENTO, CALIFORNIA 95691
(916) 372-1434

BENCHMARK:

EXISTING TOPOGRAPHY BASED ON GROUND TOPOGRAPHIC SURVEY PERFORMED OCTOBER 2008 BY FRAME SURVEYING. HORIZONTAL AND VERTICAL CONTROL FOR THE TOPOGRAPHY IS BASED ON THE SOLANO COUNTY CONTROL NETWORK. THE VERTICAL DATUM IS NAVD88. MONUMENT LOCATED AT SOUTH END OF RAILROAD BRIDGE (2106740.06 N, 7009652.04 E, 136.67' Z)

DRAWING STATUS:
- RELEASED - 5/15/09
- CONSTRUCTION SET

DATE SIGNED
THESE DRAWINGS ARE NOT CONSIDERED FINAL UNTIL THE ENGINEER'S SEAL BELOW HAS BEEN SIGNED AND DATED.

REGISTERED PROFESSIONAL ENGINEER — CIVIL — No. C50888 Exp. 6/30/10 — STATE OF CALIFORNIA

NO.	DATE	REVISIONS	BY	APPD.

DESIGNED BY: MF
DRAWN BY: MF
CHECKED BY: SD
SCALE: AS NOTED

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2940 Spafford Street, Suite 200
Davis, CA 95618
(530) 757-1555
Sacramento Office
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Sacramento, CA 95814
(916) 451-1555

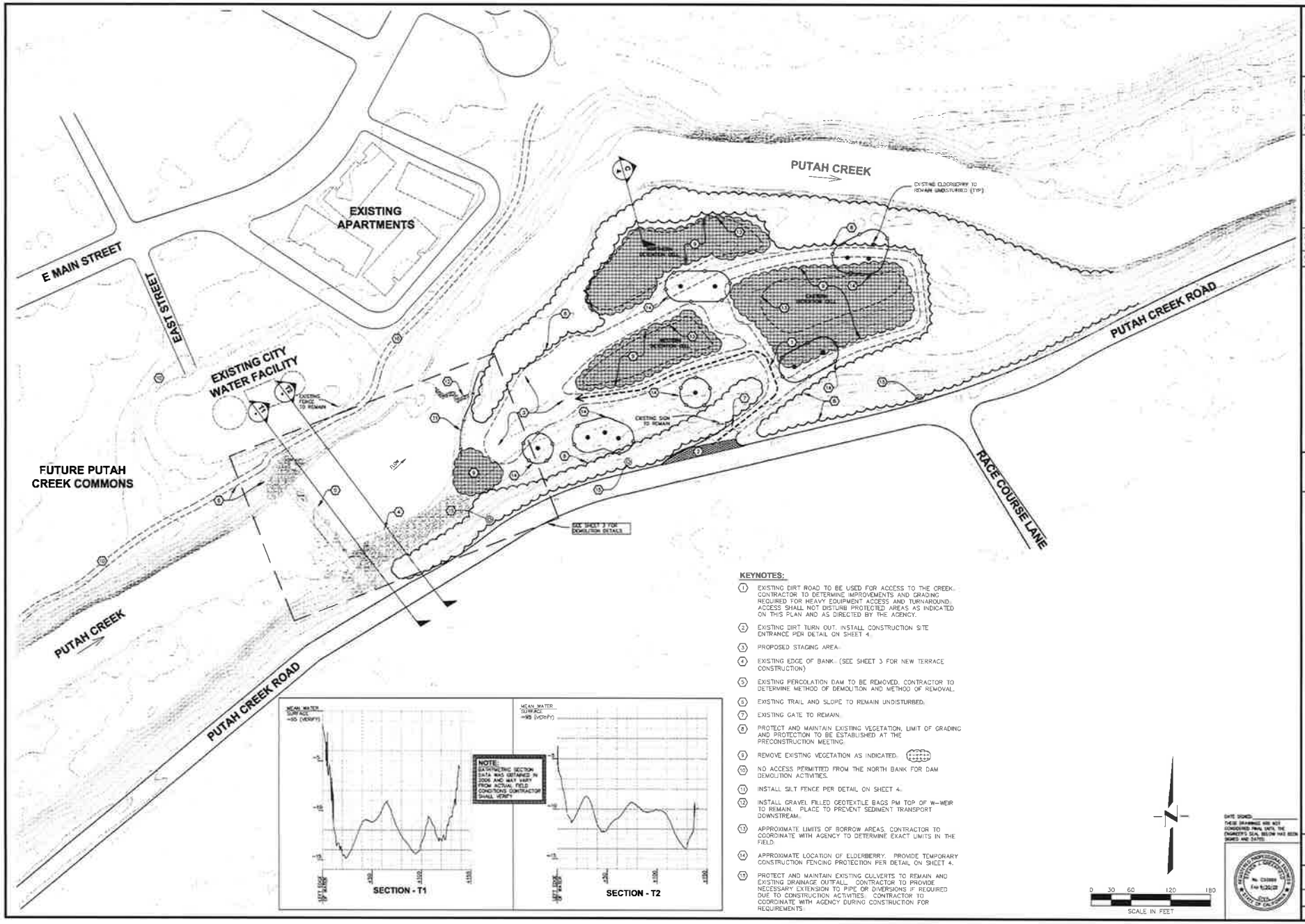
CUNNINGHAM ENGINEERING

PUTAH CREEK FLOODPLAIN RESTORATION & PERCOLATION DAM REMOVAL
LOWER PUTAH CREEK COORDINATING COMMITTEE
TITLE SHEET
CITY OF WINTERS CALIFORNIA

SHEET 1 OF 4

DATE: 5/15/09

JOB NO: 1023.01



KEYNOTES:

1. EXISTING DIRT ROAD TO BE USED FOR ACCESS TO THE CREEK. CONTRACTOR TO DETERMINE IMPROVEMENTS AND GRADING REQUIRED FOR HEAVY EQUIPMENT ACCESS AND TURNAROUND. ACCESS SHALL NOT DISTURB PROTECTED AREAS AS INDICATED ON THIS PLAN AND AS DIRECTED BY THE AGENCY.
2. EXISTING DIRT TURN OUT. INSTALL CONSTRUCTION SITE ENTRANCE PER DETAIL ON SHEET 4.
3. PROPOSED STAGING AREA.
4. EXISTING EDGE OF BANK. (SEE SHEET 3 FOR NEW TERRACE CONSTRUCTION)
5. EXISTING PERCOLATION DAM TO BE REMOVED. CONTRACTOR TO DETERMINE METHOD OF DEMOLITION AND METHOD OF REMOVAL.
6. EXISTING TRAIL AND SLOPE TO REMAIN UNDISTURBED.
7. EXISTING GATE TO REMAIN.
8. PROTECT AND MAINTAIN EXISTING VEGETATION. LIMIT OF GRADING AND PROTECTION TO BE ESTABLISHED AT THE PRECONSTRUCTION MEETING.
9. REMOVE EXISTING VEGETATION AS INDICATED.
10. NO ACCESS PERMITTED FROM THE NORTH BANK FOR DAM DEMOLITION ACTIVITIES.
11. INSTALL SILT FENCE PER DETAIL ON SHEET 4.
12. INSTALL GRAVEL FILLED GEOTEXTILE BAGS PM TOP OF W-WEIR TO REMAIN. PLACE TO PREVENT SEDIMENT TRANSPORT DOWNSTREAM.
13. APPROXIMATE LIMITS OF BORROW AREAS. CONTRACTOR TO COORDINATE WITH AGENCY TO DETERMINE EXACT LIMITS IN THE FIELD.
14. APPROXIMATE LOCATION OF ELDERBERRY. PROVIDE TEMPORARY CONSTRUCTION FENCING PROTECTION PER DETAIL ON SHEET 4.
15. PROTECT AND MAINTAIN EXISTING CULVERTS TO REMAIN AND EXISTING DRAINAGE OUTFALL. CONTRACTOR TO PROVIDE NECESSARY EXTENSION TO PIPE OR DIVERSIONS IF REQUIRED DUE TO CONSTRUCTION ACTIVITIES. CONTRACTOR TO COORDINATE WITH AGENCY DURING CONSTRUCTION FOR REQUIREMENTS.

DATE SIGNED:
THESE DRAWINGS ARE NOT CONSIDERED FINAL UNTIL THE ENGINEER'S SEAL BELOW HAS BEEN SIGNED AND DATED.

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PUTAH CREEK FLOODPLAIN RESTORATION & PERCOLATION DAM REMOVAL
LOWER PUTAH CREEK COORDINATING COMMITTEE
SITE ACCESS PLAN

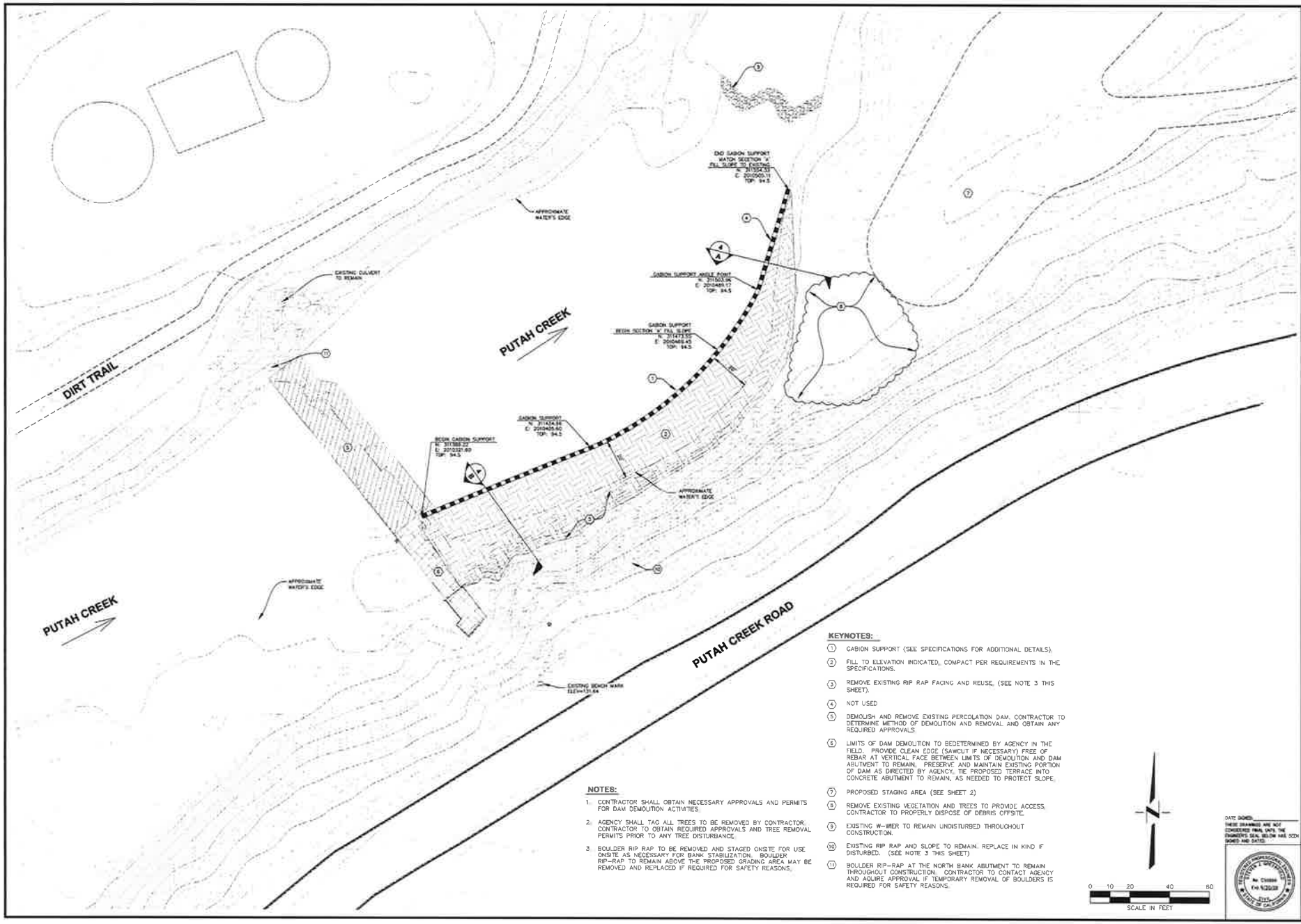
CITY OF WINTERS CALIFORNIA

SHEET 2 OF 4

DATE: 5/15/09

JOB NO: 1025.01

SCALE 1" = 60'



KEYNOTES:

1. GABION SUPPORT (SEE SPECIFICATIONS FOR ADDITIONAL DETAILS).
2. FILL TO ELEVATION INDICATED, COMPACT PER REQUIREMENTS IN THE SPECIFICATIONS.
3. REMOVE EXISTING RIP RAP FACING AND REUSE, (SEE NOTE 3 THIS SHEET).
4. NOT USED
5. DEMOLISH AND REMOVE EXISTING PERCOLATION DAM. CONTRACTOR TO DETERMINE METHOD OF DEMOLITION AND REMOVAL AND OBTAIN ANY REQUIRED APPROVALS.
6. LIMITS OF DAM DEMOLITION TO BEDETERMINED BY AGENCY IN THE FIELD. PROVIDE CLEAN EDGE (SAWCUT IF NECESSARY) FREE OF REBAR AT VERTICAL FACE BETWEEN LIMITS OF DEMOLITION AND DAM ABUTMENT TO REMAIN. PRESERVE AND MAINTAIN EXISTING PORTION OF DAM AS DIRECTED BY AGENCY. TIE PROPOSED TERRACE INTO CONCRETE ABUTMENT TO REMAIN, AS NEEDED TO PROTECT SLOPE.
7. PROPOSED STAGING AREA (SEE SHEET 2)
8. REMOVE EXISTING VEGETATION AND TREES TO PROVIDE ACCESS. CONTRACTOR TO PROPERLY DISPOSE OF DEBRIS OFFSITE.
9. EXISTING W-WIER TO REMAIN UNDISTURBED THROUGHOUT CONSTRUCTION.
10. EXISTING RIP RAP AND SLOPE TO REMAIN. REPLACE IN KIND IF DISTURBED. (SEE NOTE 3 THIS SHEET)
11. BOULDER RIP-RAP AT THE NORTH BANK ABUTMENT TO REMAIN THROUGHOUT CONSTRUCTION. CONTRACTOR TO CONTACT AGENCY AND AQUIRE APPROVAL IF TEMPORARY REMOVAL OF BOULDERS IS REQUIRED FOR SAFETY REASONS.

NOTES:

1. CONTRACTOR SHALL OBTAIN NECESSARY APPROVALS AND PERMITS FOR DAM DEMOLITION ACTIVITIES.
2. AGENCY SHALL TAG ALL TREES TO BE REMOVED BY CONTRACTOR. CONTRACTOR TO OBTAIN REQUIRED APPROVALS AND TREE REMOVAL PERMITS PRIOR TO ANY TREE DISTURBANCE.
3. BOULDER RIP RAP TO BE REMOVED AND STAGED ONSITE FOR USE ONSITE AS NECESSARY FOR BANK STABILIZATION. BOULDER RIP-RAP TO REMAIN ABOVE THE PROPOSED GRADING AREA MAY BE REMOVED AND REPLACED IF REQUIRED FOR SAFETY REASONS.

0 10 20 40 60
SCALE IN FEET

DATE SIGNED: _____
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Re. Cluskey
Exp. 9/30/2010

DESIGNED BY: RF
DRAWN BY: RF
CHECKED BY: SG
SCALE: 1" = 20'

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Virginia Office: 7700 Leesburg Pike, Suite 210, Falls Church, VA 22043, (703) 748-2676

CUNNINGHAM · SWORD · ENGINEERING

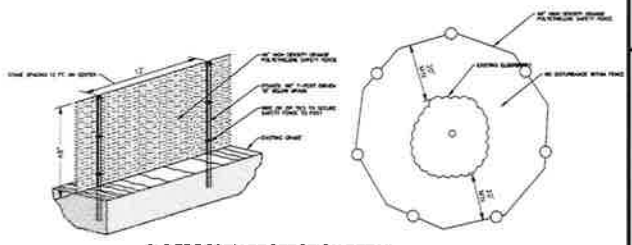
PUTAH CREEK FLOODPLAIN RESTORATION & PERCOLATION DAM REMOVAL
LOWER PUTAH CREEK COORDINATING COMMITTEE
DEMOLITION PLAN

CITY OF WINTERS CALIFORNIA

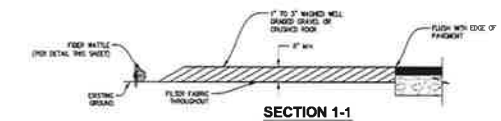
SHEET 3 OF 4

DATE: 5/15/09

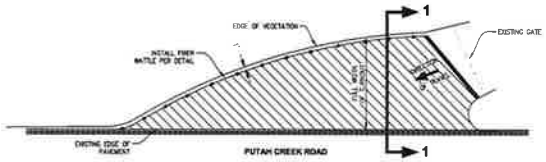
JOB NO: 1025.01



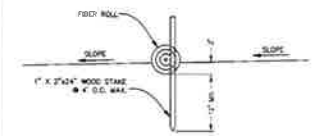
ELDERBERRY PROTECTION DETAIL
NTS



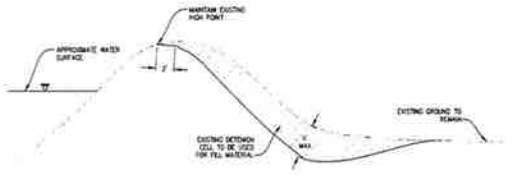
SECTION 1-1
NTS



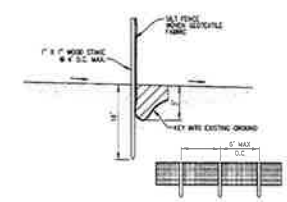
CONSTRUCTION SITE ACCESS
NTS



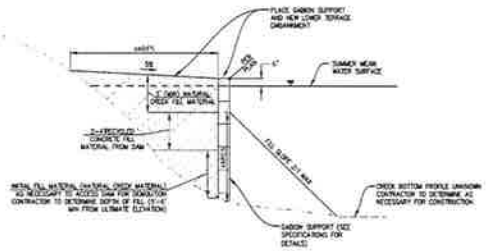
FIBER WATTLE DETAIL



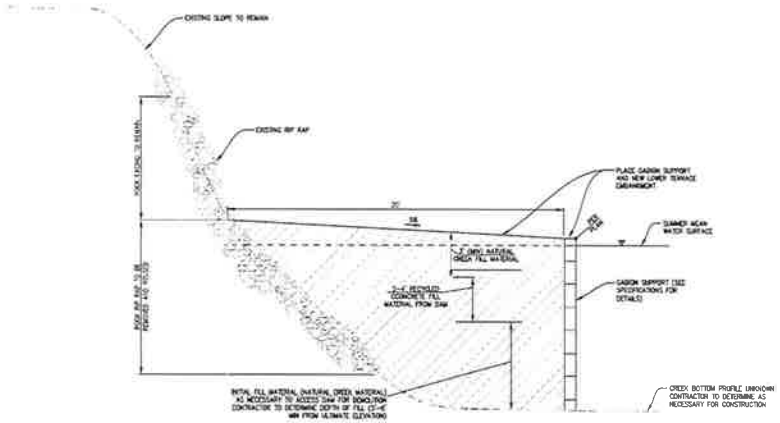
SECTION C-C
NTS



SILT FENCE
NTS



SECTION A-A
NTS



SECTION B-B
NTS

DATE SIGNED
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CHECKED BY: SG
SCALE: AS NOTED

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PUTAH CREEK FLOODPLAIN RESTORATION & PERCOLATION DAM REMOVAL
LOWER PUTAH CREEK COORDINATING COMMITTEE
DETAILS

CITY OF WINTERS CALIFORNIA

SHEET 4 OF 4

DATE: 5/15/09
JOB NO: 1025.01

APPENDIX A

STANDARD INSURANCE REQUIREMENTS

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section **II** – Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section **V** – Definitions.

SECTION I – COVERAGES

COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

(1) The amount we will pay for damages is limited as described in Section **III** – Limits Of Insurance; and

(2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages **A** or **B** or medical expenses under Coverage **C.**

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages **A** and **B.**

b. This insurance applies to "bodily injury" and "property damage" only if:

(1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

(2) The "bodily injury" or "property damage" occurs during the policy period; and

(3) Prior to the policy period, no insured listed under Paragraph **1.** of Section **II** – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph **1.** of Section **II** – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.

d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph **1.** of Section **II** – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

(1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;

(2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or

(3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

(1) That the insured would have in the absence of the contract or agreement; or

(2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:

(a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and

(b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

(1) Causing or contributing to the intoxication of any person;

(2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or

(3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

(1) An "employee" of the insured arising out of and in the course of:

(a) Employment by the insured; or

(b) Performing duties related to the conduct of the insured's business; or

(2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph **(1)** above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

(1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

(a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

(i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

(ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

(b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

(c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

(i) Any insured; or

(ii) Any person or organization for whom you may be legally responsible; or

(d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

(i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

(ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".

(e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

(2) Any loss, cost or expense arising out of any:

(a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

(b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

(1) A watercraft while ashore on premises you own or rent;

(2) A watercraft you do not own that is:

(a) Less than 26 feet long; and

(b) Not being used to carry persons or property for a charge;

(3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

(4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or

(5) "Bodily injury" or "property damage" arising out of:

(a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged; or

(b) the operation of any of the machinery or equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment".

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

(1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or

(2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

i. War

"Bodily injury" or "property damage", however caused, arising, directly or indirectly, out of:

(1) War, including undeclared or civil war;

(2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

(3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

j. Damage To Property

"Property damage" to:

(1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

(2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;

(3) Property loaned to you;

(4) Personal property in the care, custody or control of the insured;

(5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or

(6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs **(1), (3)** and **(4)** of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section **III** – Limits Of Insurance.

Paragraph **(2)** of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs **(3), (4), (5)** and **(6)** of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph **(6)** of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

l. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

m. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

(1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or

(2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

n. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

(1) "Your product";

(2) "Your work"; or

(3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

o. Personal And Advertising Injury

"Bodily injury" arising out of "personal and advertising injury".

p. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

q. Distribution Of Material In Violation Of Statutes

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

(1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law; or

(2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or

(3) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

Exclusions **c.** through **n.** do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section **III** – Limits Of Insurance.

COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

(1) The amount we will pay for damages is limited as described in Section **III** – Limits Of Insurance; and

(2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages **A** or **B** or medical expenses under Coverage **C.**

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages **A** and **B.**

b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

2. Exclusions

This insurance does not apply to:

a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral or written publication of material whose first publication took place before the beginning of the policy period.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

f. Breach Of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".

g. Quality Or Performance Of Goods – Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

i. Infringement Of Copyright, Patent, Trademark Or Trade Secret

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your "advertisement".

However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan.

j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

(1) Advertising, broadcasting, publishing or telecasting;

(2) Designing or determining content of websites for others; or

(3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **14.a., b.** and **c.** of "personal and advertising injury" under the Definitions Section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

l. Unauthorized Use Of Another's Name Or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

n. Pollution-Related

Any loss, cost or expense arising out of any:

(1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

(2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

o. War

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

(1) War, including undeclared or civil war;

(2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

(3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

p. Distribution Of Material In Violation Of Statutes

"Personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

(1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law; or

(2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or

(3) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

COVERAGE C MEDICAL PAYMENTS

1. Insuring Agreement

a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

(1) On premises you own or rent;

(2) On ways next to premises you own or rent; or

(3) Because of your operations;

provided that:

(a) The accident takes place in the "coverage territory" and during the policy period;

(b) The expenses are incurred and reported to us within one year of the date of the accident; and

(c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

(1) First aid administered at the time of an accident;

(2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and

(3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

g. Coverage A Exclusions

Excluded under Coverage **A.**

SUPPLEMENTARY PAYMENTS – COVERAGES A AND B

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

a. All expenses we incur.

b. Up to $250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.

d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to $250 a day because of time off from work.

e. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.

f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.

g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";

b. This insurance applies to such liability assumed by the insured;

c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";

d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;

e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and

f. The indemnitee:

(1) Agrees in writing to:

(a) Cooperate with us in the investigation, settlement or defense of the "suit";

(b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";

(c) Notify any other insurer whose coverage is available to the indemnitee; and

(d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

(2) Provides us with written authorization to:

(a) Obtain records and other information related to the "suit"; and

(b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph **2.b.(2)** of Section **I** – Coverage **A** – Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when we have used up the applicable limit of insurance in the payment of judgments or settlements or the conditions set forth above, or the terms of the agreement described in Paragraph **f.** above, are no longer met.

SECTION II – WHO IS AN INSURED

1. If you are designated in the Declarations as:

a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.

b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.

c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.

d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

(a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;

(b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph **(1)(a)** above;

(c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs **(1)(a)** or **(b)** above; or

(d) Arising out of his or her providing or failing to provide professional health care services.

(2) "Property damage" to property:

(a) Owned, occupied or used by,

(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

c. Any person or organization having proper temporary custody of your property if you die, but only:

(1) With respect to liability arising out of the maintenance or use of that property; and

(2) Until your legal representative has been appointed.

d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;

b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

a. Insureds;

b. Claims made or "suits" brought; or

c. Persons or organizations making claims or bringing "suits".

2. The General Aggregate Limit is the most we will pay for the sum of:

a. Medical expenses under Coverage **C;**

b. Damages under Coverage **A,** except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and

c. Damages under Coverage **B.**

3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage **A** for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".

4. Subject to Paragraph **2.** above, the Personal and Advertising Injury Limit is the most we will pay under Coverage **B** for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.

5. Subject to Paragraph **2.** or **3.** above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:

a. Damages under Coverage **A;** and

b. Medical expenses under Coverage **C**

because of all "bodily injury" and "property damage" arising out of any one "occurrence".

6. Subject to Paragraph **5.** above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage **A** for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.

7. Subject to Paragraph **5.** above, the Medical Expense Limit is the most we will pay under Coverage **C** for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

1. **Bankruptcy**

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. **Duties In The Event Of Occurrence, Offense, Claim Or Suit**

a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

(1) How, when and where the "occurrence" or offense took place;

(2) The names and addresses of any injured persons and witnesses; and

(3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. If a claim is made or "suit" is brought against any insured, you must:

(1) Immediately record the specifics of the claim or "suit" and the date received; and

(2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

c. You and any other involved insured must:

(1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";

(2) Authorize us to obtain records and other information;

(3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and

(4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or

b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when Paragraph **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph **c.** below.

b. Excess Insurance

(1) This insurance is excess over:

(a) Any of the other insurance, whether primary, excess, contingent or on any other basis:

(i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(ii) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(iii) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or

(iv) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Section **I** – Coverage **A** – Bodily Injury And Property Damage Liability.

(b) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured by attachment of an endorsement.

(2) When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

(3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(b) The total of all deductible and self-insured amounts under all that other insurance.

(4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. **Method Of Sharing**

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

5. **Premium Audit**

a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.

b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.

c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. **Representations**

By accepting this policy, you agree:

a. The statements in the Declarations are accurate and complete;

b. Those statements are based upon representations you made to us; and

c. We have issued this policy in reliance upon your representations.

7. **Separation Of Insureds**

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

a. As if each Named Insured were the only Named Insured; and

b. Separately to each insured against whom claim is made or "suit" is brought.

8. **Transfer Of Rights Of Recovery Against Others To Us**

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

9. **When We Do Not Renew**

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V – DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:

a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and

b. Regarding web-sites, only that part of a web-site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.

2. "Auto" means:

a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or

b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
4. "Coverage territory" means:
   a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
   b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph **a.** above; or
   c. All other parts of the world if the injury or damage arises out of:
      (1) Goods or products made or sold by you in the territory described in Paragraph **a.** above;
      (2) The activities of a person whose home is in the territory described in Paragraph **a.** above, but is away for a short time on your business; or
      (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication

   provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in Paragraph **a.** above or in a settlement we agree to.
5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
   a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
   b. You have failed to fulfill the terms of a contract or agreement;

   if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work" or your fulfilling the terms of the contract or agreement.
9. "Insured contract" means:
   a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
   b. A sidetrack agreement;
   c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
   d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
   e. An elevator maintenance agreement;
   f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

      Paragraph **f.** does not include that part of any contract or agreement:
      (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
      (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
         (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
         (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
      (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in **(2)** above and supervisory, inspection, architectural or engineering activities.

10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

11. "Loading or unloading" means the handling of property:

    a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";

    b. While it is in or on an aircraft, watercraft or "auto"; or

    c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

    but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

    a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;

    b. Vehicles maintained for use solely on or next to premises you own or rent;

    c. Vehicles that travel on crawler treads;

    d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:

        (1) Power cranes, shovels, loaders, diggers or drills; or

        (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;

    e. Vehicles not described in Paragraph **a., b., c.** or **d.** above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

        (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or

        (2) Cherry pickers and similar devices used to raise or lower workers;

    f. Vehicles not described in Paragraph **a., b., c.** or **d.** above maintained primarily for purposes other than the transportation of persons or cargo.

    However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

    (1) Equipment designed primarily for:

        (a) Snow removal;

        (b) Road maintenance, but not construction or resurfacing; or

        (c) Street cleaning;

    (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

    (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

    However, "mobile equipment" does not include any land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

    a. False arrest, detention or imprisonment;

    b. Malicious prosecution;

    c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;

    d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;

    e. Oral or written publication, in any manner, of material that violates a person's right of privacy;

    f. The use of another's advertising idea in your "advertisement"; or

    g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".

15. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

16. "Products-completed operations hazard":

    a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

        (1) Products that are still in your physical possession; or

        (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:

            (a) When all of the work called for in your contract has been completed.

            (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.

            (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

        Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

    b. Does not include "bodily injury" or "property damage" arising out of:

        (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;

        (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or

        (3) Products or operations for which the classification, listed in the Declarations or in a policy schedule, states that products-completed operations are subject to the General Aggregate Limit.

17. "Property damage" means:

    a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

    b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

    For the purposes of this insurance, electronic data is not tangible property.

    As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

    a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or

    b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

20. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

21. "Your product":

    a. Means:

        (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

            (a) You;

            (b) Others trading under your name; or

            (c) A person or organization whose business or assets you have acquired; and

        (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes:

(1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and

(2) The providing of or failure to provide warnings or instructions.

c. Does not include vending machines or other property rented to or located for the use of others but not sold.

22. "Your work":

a. Means:

(1) Work or operations performed by you or on your behalf; and

(2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes:

(1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work", and

(2) The providing of or failure to provide warnings or instructions.

All terms and conditions of this policy apply unless modified by this endorsement.

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BUSINESS AUTO COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section **V** – Definitions.

SECTION I – COVERED AUTOS

Item Two of the Declarations shows the "autos" that are covered "autos" for each of your coverages. The following numerical symbols describe the "autos" that may be covered "autos". The symbols entered next to a coverage on the Declarations designate the only "autos" that are covered "autos".

A. Description Of Covered Auto Designation Symbols

Symbol	Description Of Covered Auto Designation Symbols	
1	Any "Auto"	
2	Owned "Autos" Only	Only those "autos" you own (and for Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" you acquire ownership of after the policy begins.
3	Owned Private Passenger "Autos" Only	Only the private passenger "autos" you own. This includes those private passenger "autos" you acquire ownership of after the policy begins.
4	Owned "Autos" Other Than Private Passenger "Autos" Only	Only those "autos" you own that are not of the private passenger type (and for Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" not of the private passenger type you acquire ownership of after the policy begins.
5	Owned "Autos" Subject To No-Fault	Only those "autos" you own that are required to have No-Fault benefits in the state where they are licensed or principally garaged. This includes those "autos" you acquire ownership of after the policy begins provided they are required to have No-Fault benefits in the state where they are licensed or principally garaged.
6	Owned "Autos" Subject To A Compulsory Uninsured Motorists Law	Only those "autos" you own that because of the law in the state where they are licensed or principally garaged are required to have and cannot reject Uninsured Motorists Coverage. This includes those "autos" you acquire ownership of after the policy begins provided they are subject to the same state uninsured motorists requirement.
7	Specifically Described "Autos"	Only those "autos" described in Item Three of the Declarations for which a premium charge is shown (and for Liability Coverage any "trailers" you don't own while attached to any power unit described in Item Three).
8	Hired "Autos" Only	Only those "autos" you lease, hire, rent or borrow. This does not include any "auto" you lease, hire, rent, or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.
9	Nonowned "Autos" Only	Only those "autos" you do not own, lease, hire, rent or borrow that are used in connection with your business. This includes "autos" owned by your "employees", partners (if you are a partnership), members (if you are a limited liability company), or members of their households but only while used in your business or your personal affairs.

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19	Mobile Equipment Subject To Compulsory Or Financial Responsibility Or Other Motor Vehicle Insurance Law Only	Only those "autos" that are land vehicles and that would qualify under the definition of "mobile equipment" under this policy if they were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where they are licensed or principally garaged.

B. Owned Autos You Acquire After The Policy Begins

1. If Symbols **1, 2, 3, 4, 5, 6** or **19** are entered next to a coverage in Item Two of the Declarations, then you have coverage for "autos" that you acquire of the type described for the remainder of the policy period.
2. But, if Symbol **7** is entered next to a coverage in Item Two of the Declarations, an "auto" you acquire will be a covered "auto" for that coverage only if:
   a. We already cover all "autos" that you own for that coverage or it replaces an "auto" you previously owned that had that coverage; and
   b. You tell us within 30 days after you acquire it that you want us to cover it for that coverage.

C. Certain Trailers, Mobile Equipment And Temporary Substitute Autos

If Liability Coverage is provided by this Coverage Form, the following types of vehicles are also covered "autos" for Liability Coverage:

1. "Trailers" with a load capacity of 2,000 pounds or less designed primarily for travel on public roads.
2. "Mobile equipment" while being carried or towed by a covered "auto".
3. Any "auto" you do not own while used with the permission of its owner as a temporary substitute for a covered "auto" you own that is out of service because of its:
   a. Breakdown;
   b. Repair;
   c. Servicing;
   d. "Loss"; or
   e. Destruction.

SECTION II – LIABILITY COVERAGE

A. Coverage

We will pay all sums an "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of a covered "auto".

We will also pay all sums an "insured" legally must pay as a "covered pollution cost or expense" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of covered "autos". However, we will only pay for the "covered pollution cost or expense" if there is either "bodily injury" or "property damage" to which this insurance applies that is caused by the same "accident".

We have the right and duty to defend any "insured" against a "suit" asking for such damages or a "covered pollution cost or expense". However, we have no duty to defend any "insured" against a "suit" seeking damages for "bodily injury" or "property damage" or a "covered pollution cost or expense" to which this insurance does not apply. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends when the Liability Coverage Limit of Insurance has been exhausted by payment of judgments or settlements.

1. Who Is An Insured

The following are "insureds":

a. You for any covered "auto".
b. Anyone else while using with your permission a covered "auto" you own, hire or borrow except:
   (1) The owner or anyone else from whom you hire or borrow a covered "auto". This exception does not apply if the covered "auto" is a "trailer" connected to a covered "auto" you own.

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(2) Your "employee" if the covered "auto" is owned by that "employee" or a member of his or her household.

(3) Someone using a covered "auto" while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours.

(4) Anyone other than your "employees", partners (if you are a partnership), members (if you are a limited liability company), or a lessee or borrower or any of their "employees", while moving property to or from a covered "auto".

(5) A partner (if you are a partnership), or a member (if you are a limited liability company) for a covered "auto" owned by him or her or a member of his or her household.

c. Anyone liable for the conduct of an "insured" described above but only to the extent of that liability.

2. Coverage Extensions

a. Supplementary Payments

We will pay for the "insured":

(1) All expenses we incur.

(2) Up to $2,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

(3) The cost of bonds to release attachments in any "suit" against the "insured" we defend, but only for bond amounts within our Limit of Insurance.

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to $250 a day because of time off from work.

(5) All costs taxed against the "insured" in any "suit" against the "insured" we defend.

(6) All interest on the full amount of any judgment that accrues after entry of the judgment in any "suit" against the "insured" we defend, but our duty to pay interest ends when we have paid, offered to pay or deposited in court the part of the judgment that is within our Limit of Insurance.

These payments will not reduce the Limit of Insurance.

b. Out-Of-State Coverage Extensions

While a covered "auto" is away from the state where it is licensed we will:

(1) Increase the Limit of Insurance for Liability Coverage to meet the limits specified by a compulsory or financial responsibility law of the jurisdiction where the covered "auto" is being used. This extension does not apply to the limit or limits specified by any law governing motor carriers of passengers or property.

(2) Provide the minimum amounts and types of other coverages, such as no-fault, required of out-of-state vehicles by the jurisdiction where the covered "auto" is being used.

We will not pay anyone more than once for the same elements of loss because of these extensions.

B. Exclusions

This insurance does not apply to any of the following:

1. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured".

2. Contractual

Liability assumed under any contract or agreement.

But this exclusion does not apply to liability for damages:

a. Assumed in a contract or agreement that is an "insured contract" provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement; or

b. That the "insured" would have in the absence of the contract or agreement.

3. Workers' Compensation

Any obligation for which the "insured" or the "insured's" insurer may be held liable under any workers' compensation, disability benefits or unemployment compensation law or any similar law.

4. Employee Indemnification And Employer's Liability

"Bodily injury" to:

a. An "employee" of the "insured" arising out of and in the course of:

(1) Employment by the "insured"; or

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(2) Performing the duties related to the conduct of the "insured's" business; or

b. The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph **a.** above.

This exclusion applies:

(1) Whether the "insured" may be liable as an employer or in any other capacity; and

(2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

But this exclusion does not apply to "bodily injury" to domestic "employees" not entitled to workers' compensation benefits or to liability assumed by the "insured" under an "insured contract". For the purposes of the Coverage Form, a domestic "employee" is a person engaged in household or domestic work performed principally in connection with a residence premises.

5. Fellow Employee

"Bodily injury" to any fellow "employee" of the "insured" arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business.

6. Care, Custody Or Control

"Property damage" to or "covered pollution cost or expense" involving property owned or transported by the "insured" or in the "insured's" care, custody or control. But this exclusion does not apply to liability assumed under a sidetrack agreement.

7. Handling Of Property

"Bodily injury" or "property damage" resulting from the handling of property:

a. Before it is moved from the place where it is accepted by the "insured" for movement into or onto the covered "auto"; or

b. After it is moved from the covered "auto" to the place where it is finally delivered by the "insured".

8. Movement Of Property By Mechanical Device

"Bodily injury" or "property damage" resulting from the movement of property by a mechanical device (other than a hand truck) unless the device is attached to the covered "auto".

9. Operations

"Bodily injury" or "property damage" arising out of the operation of:

a. Any equipment listed in Paragraphs **6.b.** and **6.c.** of the definition of "mobile equipment"; or

b. Machinery or equipment that is on, attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

10. Completed Operations

"Bodily injury" or "property damage" arising out of your work after that work has been completed or abandoned.

In this exclusion, your work means:

a. Work or operations performed by you or on your behalf; and

b. Materials, parts or equipment furnished in connection with such work or operations.

Your work includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in Paragraph **a.** or **b.** above.

Your work will be deemed completed at the earliest of the following times:

(1) When all of the work called for in your contract has been completed.

(2) When all of the work to be done at the site has been completed if your contract calls for work at more than one site.

(3) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

11. Pollution

"Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

a. That are, or that are contained in any property that is:

(1) Being transported or towed by, handled, or handled for movement into, onto or from, the covered "auto";

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(2) Otherwise in the course of transit by or on behalf of the "insured"; or

(3) Being stored, disposed of, treated or processed in or upon the covered "auto";

b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or

c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph **a.** above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts, if:

(1) The "pollutants" escape, seep, migrate, or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and

(2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in Paragraphs **6.b.** and **6.c.** of the definition of "mobile equipment".

Paragraphs **b.** and **c.** above of this exclusion do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

(1) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and

(2) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

12. War

"Bodily injury" or "property damage" arising directly or indirectly out of:

a. War, including undeclared or civil war;

b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

13. Racing

Covered "autos" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. This insurance also does not apply while that covered "auto" is being prepared for such a contest or activity.

C. Limit Of Insurance

Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for the total of all damages and "covered pollution cost or expense" combined, resulting from any one "accident" is the Limit of Insurance for Liability Coverage shown in the Declarations.

All "bodily injury", "property damage" and "covered pollution cost or expense" resulting from continuous or repeated exposure to substantially the same conditions will be considered as resulting from one "accident".

No one will be entitled to receive duplicate payments for the same elements of "loss" under this Coverage Form and any Medical Payments Coverage Endorsement, Uninsured Motorists Coverage Endorsement or Underinsured Motorists Coverage Endorsement attached to this Coverage Part.

SECTION III – PHYSICAL DAMAGE COVERAGE

A. Coverage

1. We will pay for "loss" to a covered "auto" or its equipment under:

a. Comprehensive Coverage

From any cause except:

(1) The covered "auto's" collision with another object; or

(2) The covered "auto's" overturn.

b. Specified Causes Of Loss Coverage

Caused by:

(1) Fire, lightning or explosion;

(2) Theft;

(3) Windstorm, hail or earthquake;

(4) Flood;

(5) Mischief or vandalism; or

(6) The sinking, burning, collision or derailment of any conveyance transporting the covered "auto".

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c. Collision Coverage

Caused by:

(1) The covered "auto's" collision with another object; or

(2) The covered "auto's" overturn.

2. Towing

We will pay up to the limit shown in the Declarations for towing and labor costs incurred each time a covered "auto" of the private passenger type is disabled. However, the labor must be performed at the place of disablement.

3. Glass Breakage – Hitting A Bird Or Animal – Falling Objects Or Missiles

If you carry Comprehensive Coverage for the damaged covered "auto", we will pay for the following under Comprehensive Coverage:

a. Glass breakage;

b. "Loss" caused by hitting a bird or animal; and

c. "Loss" caused by falling objects or missiles.

However, you have the option of having glass breakage caused by a covered "auto's" collision or overturn considered a "loss" under Collision Coverage.

4. Coverage Extensions

a. Transportation Expenses

We will pay up to $20 per day to a maximum of $600 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

b. Loss Of Use Expenses

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver, under a written rental contract or agreement. We will pay for loss of use expenses if caused by:

(1) Other than collision only if the Declarations indicate that Comprehensive Coverage is provided for any covered "auto";

(2) Specified Causes Of Loss only if the Declarations indicate that Specified Causes Of Loss Coverage is provided for any covered "auto"; or

(3) Collision only if the Declarations indicate that Collision Coverage is provided for any covered "auto".

However, the most we will pay for any expenses for loss of use is $20 per day, to a maximum of $600.

B. Exclusions

1. We will not pay for "loss" caused by or resulting from any of the following. Such "loss" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the "loss".

a. Nuclear Hazard

(1) The explosion of any weapon employing atomic fission or fusion; or

(2) Nuclear reaction or radiation, or radioactive contamination, however caused.

b. War Or Military Action

(1) War, including undeclared or civil war;

(2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

(3) Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

2. We will not pay for "loss" to any covered "auto" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. We will also not pay for "loss" to any covered "auto" while that covered "auto" is being prepared for such a contest or activity.

3. We will not pay for "loss" caused by or resulting from any of the following unless caused by other "loss" that is covered by this insurance:

a. Wear and tear, freezing, mechanical or electrical breakdown.

b. Blowouts, punctures or other road damage to tires.

4. We will not pay for "loss" to any of the following:

a. Tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.

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b. Any device designed or used to detect speed measuring equipment such as radar or laser detectors and any jamming apparatus intended to elude or disrupt speed measurement equipment.

c. Any electronic equipment, without regard to whether this equipment is permanently installed, that receives or transmits audio, visual or data signals and that is not designed solely for the reproduction of sound.

d. Any accessories used with the electronic equipment described in Paragraph **c.** above.

Exclusions **4.c.** and **4.d.** do not apply to:

a. Equipment designed solely for the reproduction of sound and accessories used with such equipment, provided such equipment is permanently installed in the covered "auto" at the time of the "loss" or such equipment is removable from a housing unit which is permanently installed in the covered "auto" at the time of the "loss", and such equipment is designed to be solely operated by use of the power from the "auto's" electrical system, in or upon the covered "auto"; or

b. Any other electronic equipment that is:

(1) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system; or

(2) An integral part of the same unit housing any sound reproducing equipment described in Paragraph **a.** above and permanently installed in the opening of the dash or console of the covered "auto" normally used by the manufacturer for installation of a radio.

5. We will not pay for "loss" to a covered "auto" due to "diminution in value".

C. Limit Of Insurance

1. The most we will pay for "loss" in any one "accident" is the lesser of:

a. The actual cash value of the damaged or stolen property as of the time of the "loss"; or

b. The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

2. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total "loss".

3. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment.

D. Deductible

For each covered "auto", our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations. Any Comprehensive Coverage deductible shown in the Declarations does not apply to "loss" caused by fire or lightning.

SECTION IV – BUSINESS AUTO CONDITIONS

The following conditions apply in addition to the Common Policy Conditions:

A. Loss Conditions

1. Appraisal For Physical Damage Loss

If you and we disagree on the amount of "loss", either may demand an appraisal of the "loss". In this event, each party will select a competent appraiser. The two appraisers will select a competent and impartial umpire. The appraisers will state separately the actual cash value and amount of "loss". If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

a. Pay its chosen appraiser; and

b. Bear the other expenses of the appraisal and umpire equally.

If we submit to an appraisal, we will still retain our right to deny the claim.

2. Duties In The Event Of Accident, Claim, Suit Or Loss

We have no duty to provide coverage under this policy unless there has been full compliance with the following duties:

a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the "accident" or "loss". Include:

(1) How, when and where the "accident" or "loss" occurred;

(2) The "insured's" name and address; and

(3) To the extent possible, the names and addresses of any injured persons and witnesses.

b. Additionally, you and any other involved "insured" must:

(1) Assume no obligation, make no payment or incur no expense without our consent, except at the "insured's" own cost.

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(2) Immediately send us copies of any request, demand, order, notice, summons or legal paper received concerning the claim or "suit".

(3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit".

(4) Authorize us to obtain medical records or other pertinent information.

(5) Submit to examination, at our expense, by physicians of our choice, as often as we reasonably require.

c. If there is "loss" to a covered "auto" or its equipment you must also do the following:

(1) Promptly notify the police if the covered "auto" or any of its equipment is stolen.

(2) Take all reasonable steps to protect the covered "auto" from further damage. Also keep a record of your expenses for consideration in the settlement of the claim.

(3) Permit us to inspect the covered "auto" and records proving the "loss" before its repair or disposition.

(4) Agree to examinations under oath at our request and give us a signed statement of your answers.

3. **Legal Action Against Us**

No one may bring a legal action against us under this Coverage Form until:

a. There has been full compliance with all the terms of this Coverage Form; and

b. Under Liability Coverage, we agree in writing that the "insured" has an obligation to pay or until the amount of that obligation has finally been determined by judgment after trial. No one has the right under this policy to bring us into an action to determine the "insured's" liability.

4. **Loss Payment – Physical Damage Coverages**

At our option we may:

a. Pay for, repair or replace damaged or stolen property;

b. Return the stolen property, at our expense. We will pay for any damage that results to the "auto" from the theft; or

c. Take all or any part of the damaged or stolen property at an agreed or appraised value.

If we pay for the "loss", our payment will include the applicable sales tax for the damaged or stolen property.

5. **Transfer Of Rights Of Recovery Against Others To Us**

If any person or organization to or for whom we make payment under this Coverage Form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them.

B. General Conditions

1. **Bankruptcy**

Bankruptcy or insolvency of the "insured" or the "insured's" estate will not relieve us of any obligations under this Coverage Form.

2. **Concealment, Misrepresentation Or Fraud**

This Coverage Form is void in any case of fraud by you at any time as it relates to this Coverage Form. It is also void if you or any other "insured", at any time, intentionally conceal or misrepresent a material fact concerning:

a. This Coverage Form;

b. The covered "auto";

c. Your interest in the covered "auto"; or

d. A claim under this Coverage Form.

3. **Liberalization**

If we revise this Coverage Form to provide more coverage without additional premium charge, your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

4. **No Benefit To Bailee – Physical Damage Coverages**

We will not recognize any assignment or grant any coverage for the benefit of any person or organization holding, storing or transporting property for a fee regardless of any other provision of this Coverage Form.

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5. **Other Insurance**

   a. For any covered "auto" you own, this Coverage Form provides primary insurance. For any covered "auto" you don't own, the insurance provided by this Coverage Form is excess over any other collectible insurance. However, while a covered "auto" which is a "trailer" is connected to another vehicle, the Liability Coverage this Coverage Form provides for the "trailer" is:

      (1) Excess while it is connected to a motor vehicle you do not own.

      (2) Primary while it is connected to a covered "auto" you own.

   b. For Hired Auto Physical Damage Coverage, any covered "auto" you lease, hire, rent or borrow is deemed to be a covered "auto" you own. However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

   c. Regardless of the provisions of Paragraph **a.** above, this Coverage Form's Liability Coverage is primary for any liability assumed under an "insured contract".

   d. When this Coverage Form and any other Coverage Form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of Insurance of our Coverage Form bears to the total of the limits of all the Coverage Forms and policies covering on the same basis.

6. **Premium Audit**

   a. The estimated premium for this Coverage Form is based on the exposures you told us you would have when this policy began. We will compute the final premium due when we determine your actual exposures. The estimated total premium will be credited against the final premium due and the first Named Insured will be billed for the balance, if any. The due date for the final premium or retrospective premium is the date shown as the due date on the bill. If the estimated total premium exceeds the final premium due, the first Named Insured will get a refund.

   b. If this policy is issued for more than one year, the premium for this Coverage Form will be computed annually based on our rates or premiums in effect at the beginning of each year of the policy.

7. **Policy Period, Coverage Territory**

   Under this Coverage Form, we cover "accidents" and "losses" occurring:

   a. During the policy period shown in the Declarations; and

   b. Within the coverage territory.

   The coverage territory is:

   a. The United States of America;

   b. The territories and possessions of the United States of America;

   c. Puerto Rico;

   d. Canada; and

   e. Anywhere in the world if:

      (1) A covered "auto" of the private passenger type is leased, hired, rented or borrowed without a driver for a period of 30 days or less; and

      (2) The "insured's" responsibility to pay damages is determined in a "suit" on the merits, in the United States of America, the territories and possessions of the United States of America, Puerto Rico, or Canada or in a settlement we agree to.

   We also cover "loss" to, or "accidents" involving, a covered "auto" while being transported between any of these places.

8. **Two Or More Coverage Forms Or Policies Issued By Us**

   If this Coverage Form and any other Coverage Form or policy issued to you by us or any company affiliated with us apply to the same "accident", the aggregate maximum Limit of Insurance under all the Coverage Forms or policies shall not exceed the highest applicable Limit of Insurance under any one Coverage Form or policy. This condition does not apply to any Coverage Form or policy issued by us or an affiliated company specifically to apply as excess insurance over this Coverage Form.

SECTION V – DEFINITIONS

A. "Accident" includes continuous or repeated exposure to the same conditions resulting in "bodily injury" or "property damage".

B. "Auto" means:

1. A land motor vehicle, "trailer" or semitrailer designed for travel on public roads; or

2. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

C. "Bodily injury" means bodily injury, sickness or disease sustained by a person including death resulting from any of these.

D. "Covered pollution cost or expense" means any cost or expense arising out of:

1. Any request, demand, order or statutory or regulatory requirement that any "insured" or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants"; or
2. Any claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to or assessing the effects of "pollutants".

"Covered pollution cost or expense" does not include any cost or expense arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

a. That are, or that are contained in any property that is:
   (1) Being transported or towed by, handled, or handled for movement into, onto or from the covered "auto";
   (2) Otherwise in the course of transit by or on behalf of the "insured";
   (3) Being stored, disposed of, treated or processed in or upon the covered "auto";
b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or
c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph **a.** above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts, if:

(1) The "pollutants" escape, seep, migrate, or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and
(2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in Paragraph **6.b.** or **6.c.** of the definition of "mobile equipment".

Paragraphs **b.** and **c.** above do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

(1) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and
(2) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

E. "Diminution in value" means the actual or perceived loss in market value or resale value which results from a direct and accidental "loss".

F. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

G. "Insured" means any person or organization qualifying as an insured in the Who Is An Insured provision of the applicable coverage. Except with respect to the Limit of Insurance, the coverage afforded applies separately to each insured who is seeking coverage or against whom a claim or "suit" is brought.

H. "Insured contract" means:

1. A lease of premises;
2. A sidetrack agreement;
3. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;

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4. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
5. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another to pay for "bodily injury" or "property damage" to a third party or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement;
6. That part of any contract or agreement entered into, as part of your business, pertaining to the rental or lease, by you or any of your "employees", of any "auto". However, such contract or agreement shall not be considered an "insured contract" to the extent that it obligates you or any of your "employees" to pay for "property damage" to any "auto" rented or leased by you or any of your "employees".

An "insured contract" does not include that part of any contract or agreement:

a. That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing; or
b. That pertains to the loan, lease or rental of an "auto" to you or any of your "employees", if the "auto" is loaned, leased or rented with a driver; or
c. That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of a covered "auto" over a route or territory that person or organization is authorized to serve by public authority.

I. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

J. "Loss" means direct and accidental loss or damage.

K. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

1. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
2. Vehicles maintained for use solely on or next to premises you own or rent;
3. Vehicles that travel on crawler treads;
4. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
   a. Power cranes, shovels, loaders, diggers or drills; or
   b. Road construction or resurfacing equipment such as graders, scrapers or rollers.
5. Vehicles not described in Paragraph **1.**, **2.**, **3.**, or **4.** above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
   a. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
   b. Cherry pickers and similar devices used to raise or lower workers.
6. Vehicles not described in Paragraph **1.**, **2.**, **3.** or **4.** above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":
   a. Equipment designed primarily for:
      (1) Snow removal;
      (2) Road maintenance, but not construction or resurfacing; or
      (3) Street cleaning;
   b. Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
   c. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting or well servicing equipment.

However, "mobile equipment" does not include land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

L. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

M. "Property damage" means damage to or loss of use of tangible property.

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N. "Suit" means a civil proceeding in which:

1. Damages because of "bodily injury" or "property damage"; or

2. A "covered pollution cost or expense",

to which this insurance applies, are alleged.

"Suit" includes:

a. An arbitration proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the "insured" must submit or does submit with our consent; or

b. Any other alternative dispute resolution proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the insured submits with our consent.

O. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

P. "Trailer" includes semitrailer.

All terms and conditions of this policy apply unless modified by this endorsement.

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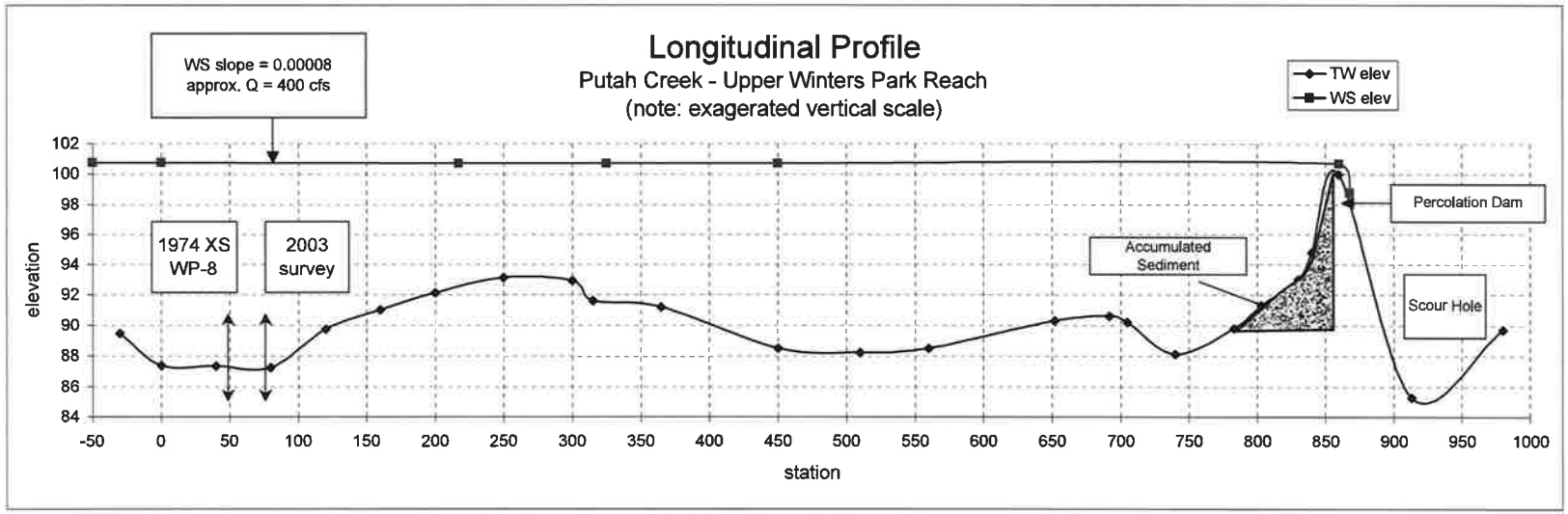
APPENDIX B

APPROXIMATE LONGITUDINAL PROFILE


Longitudinal Profile
Putah Creek - Upper Winters Park Reach
(note: exagerated vertical scale)
WS slope = 0.00008
approx. Q = 400 cfs
1974 XS
WP-8
2003
survey
Accumulated
Sediment
Percolation Dam
Scour Hole
TW elev
WS elev
elevation
station
102
100
98
96
94
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APPENDIX C

PERMITS

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO CA 95814-2922

REPLY TO
ATTENTION OF

September 30, 2009

Regulatory Division (SPK-2008-01215)

Rich Marovich
Solano County Water Agency
P.O. Box 349
Elmira, California 95625

Dear Mr. Marovich:

We are responding to your request for a Department of the Army permit for the Putah Creek Percolation Dam Removal project. This approximately 2.19-acre project involves activities, including discharges of dredged or fill material, in waters of the United States to construct a restore Putah Creek by removing the existing percolation dam. The project is located on or near Putah Creek, Section 22, Township 8 North, Range 1 West, Latitude 38.52182380063°, Longitude -121.96477061561°, MDB&M, Solano County, California.

Based on the information you provided, the proposed activity to place fill material in approximately 0.019-acre of the Putah Creek shoreline is authorized by Nationwide Permit Number 27 in order to restore 0.064-acre of Putah Creek once the dam has been removed. Your work must comply with the general terms and conditions listed on the enclosed Nationwide Permit information sheets and the following special conditions:

Special Conditions:

1. To insure your project complies with the Federal Endangered Species Act, you must implement all of the mitigating measures identified in the Fish and Wildlife Service letter of concurrence (Number 81420-2009-I-1207-1, dated September 30, 2009), including those ascribed to the Corps therein. If you are unable to implement any of these measures, you must immediately notify this office and the Fish and Wildlife Office so we may consult as appropriate, prior to initiating the work, in accordance with Federal law.

2. To insure mitigation compliance, the document entitled Winters Putah Creek Percolation Dam Removal Vegetation Restoration Plan, dated July 14, 2009, is incorporated by reference as a condition of this authorization except as modified by the following special condition:

You shall plant and maintain regionally appropriate native riparian trees at a minimum 2:1 replacement ratio along the affected reach of Putah Creek, to mitigate project impacts to the aquatic resource and associated habitat. Trees shall be planted to shade the entire stream reach. Rip-rapped areas must also be planted with native trees, using vegetated rip-rap techniques, or other appropriate methods, to insure long-term survival of these trees.

3. You must allow representatives from the Corps of Engineers to inspect the authorized activity and any mitigation, preservation, or avoidance areas at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

4. To document pre- and post-project construction conditions, you shall submit pre-construction photos of the project site prior to project implementation and post-construction photos of the project site within 30 days after project completion.

5. All terms and conditions of the February 5, 2009 Section 401 Water Quality Certification are expressly incorporated as conditions of this permit.

You must sign the enclosed Compliance Certification and return it to this office within 30 days after completion of the authorized work.

This verification is valid for two years from the date of this letter or until the Nationwide Permit is modified, reissued, or revoked, whichever comes first. Failure to comply with the General Conditions of this Nationwide Permit, or the project-specific Special Conditions of this authorization, may result in the suspension or revocation of your authorization.

We appreciate your feedback. At your earliest convenience, please tell us how we are doing by completing the customer survey on our website under *Customer Service Survey.*

Please refer to identification number SPK-2008-01215 in any correspondence concerning this project. If you have any questions, please contact Marc Fugler at U.S. Army Corps of Engineers, Delta Branch, 1325 J Street, Room 1480, Sacramento, California 95814, email *Marc.A.Fugler@usace.army.mil*, or telephone 916-557-5255. For more information regarding our program, please visit our website at *www.spk.usace.army.mil/regulatory.html.*

Sincerely,

Marc A. Fugler
Senior Project Manager
California Delta Branch

Enclosures

Copy Furnished without enclosures

William Marshall, Storm Water and Water Quality Certification Unit, Central Valley Regional Water Quality Control Board, 11020 Sun Center Drive #200, Rancho Cordova, California 95670
Kent Smith, California Department of Fish and Game Region 2, 1701 Nimbus Drive, Rancho Cordova, California 95670-4599
Peter Cross, U.S. Fish and Wildlife Service, Endangered Species Division, 2800 Cottage Way, Suite W2605, Sacramento, California 95825-3901
Erik Ringleberg, Wallace-Kuhl and Associates, 3251 Beacon Boulevard, Suite 300, West Sacramento, California 95691

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846

In reply refer to:
81420-2009-I-1207-1

SEP 30 2009

Kathleen A. Dadey, PhD.
Chief, Delta Branch
Regulatory Division
U.S. Army Corps of Engineers
1325 J Street
Sacramento, California 95814-2922

Subject: Request for Concurrence with Determination of Not Likely to Adversely Affect for the Winters Putah Creek Percolation Dam Removal Project, Solano County, California

Dear Ms. Dadey:

This letter is in response to your August 27, 2009, letter, received August 31, 2009, by the U.S. Fish and Wildlife Service (Service), requesting concurrence (request) with your determination that the Winters Putah Creek Percolation Dam Removal Project (proposed project) is not likely to adversely affect (NLAA) federally-listed species. At question are the possible effects of the proposed project on the federally-threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) (beetle). Our primary concern and mandate is the protection of federally-listed species and this response has been prepared in accordance with section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act). The Service used the following in our review of your request: 1) your August 27, 2009, request; 2) the *Biological Assessment Winters Putah Creek Percolation Dam Removal Project,* package; 3) site visit June 10, 2009; 4) electronic mail received September 11and 16, 2009; and 5) other information on file at the Sacramento Fish and Wildlife Office. A complete administrative record is on file at the Sacramento Fish and Wildlife Office.

The City of Winters (City) proposes to remove the Putah Creek Percolation Dam (dam). The dam was built in the 1930's, southeast of the city along Putah Creek (creek) with the intent of raising the surrounding ground water level. In 1955 the dam was flanked by flood flows, subsequently collapsed, and has been abandoned in place since that time. The City considers the dam a potential liability and a negative environmental influence on the creek.

TAKE PRIDE IN AMERICA

The proposed project will encompass approximately 2.19 acres within the banks of the creek from a point about seven hundred and fifty feet upstream of the Railroad Avenue Bridge (bridge) down stream to the City's wastewater treatment plant which is on the north side of the creek adjacent to the dam.

The proposed project site will be accessed from Putah Creek Road at a point approximately 0.10 mile southwest of the bridge by an existing dirt maintenance road that flanks the south side of the creek and runs under the bridge to the site of the dam. The dam will be removed using a medium duty excavator with hydraulic hammer and a thumb grapple. The dam material will be transferred to light/medium duty low-ground pressure trucks and removed from the site. The trucks will travel along the maintenance road west to the access point at Putah Creek Road. The dam will be removed beginning with the north side working back to the south side.

Elderberry (*Sambucus* sp.) shrubs (shrubs) are the sole host plant for the beetle, and stems greater than 1 inch in diameter at ground level are required for the beetle to complete its life cycle. Adults feed on elderberry pollen and are present from March through early June, during which the adults mate. Females lay their eggs in bark crevices or at the junction of stem/trunk or leaf petiole/stem. After hatching, the larva burrow into the stem, where it feeds on the live wood. Prior to entering its pupal stage, it creates an exit hole and pupal chamber. It then metamorphoses into an adult and after a few weeks emerges from the shrub. Often these exit holes are the only evidence of the beetle.

No activities associated with the proposed project will occur within twenty feet of the dripline of any shrubs. For those shrubs that are within one hundred feet of activities associated with the proposed project the City will follow the Protective Measures of the *Conservation Guidelines for the Valley Elderberry Longhorn Beetle* (USFWS July 9, 1999).

After reviewing the information provided and the proposed conservation measures, we concur with your determination that the project, as described, is not likely to adversely affect the federally-listed beetle. This concurrence is provided specific to this action area, and for the proposed project action only as originally described within the request and subsequent information provided by the proposed project proponents.

This concludes our review of your proposed project and no further coordination with us under the Act is necessary at this time. Please note, however, that this letter does not authorize take of listed species. Section 9 of the Act prohibits the "take" (e.g., harm, harass, pursue, injure, kill) of federally-listed wildlife species. As provided in 50 CFR §402.14, initiation of formal consultation is required where there is discretionary Federal involvement or control over the action (or is authorized by law) and if: (1) new information reveals the effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this review; (2) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this opinion; or (3) a new species is listed or critical habitat designated that may be affected by the action.

If you have any questions regarding this response, please contact Rocky Montgomery, Staff Biologist, or Jana Affonso, Branch Chief, Sacramento Valley Branch at the letterhead address or (916) 414-6645.

Sincerely,

Peter A. Cross

Peter A. Cross
Deputy Assistant Field Supervisor

Enclosures:
Conservation Guidelines for the Valley Elderberry Longhorn Beetle (USFWS July 9, 1999).

cc:
Marc Fugler, ACOE, Sacramento, CA
William Marshall, CVRWQCB, Rancho Cordova, CA
Liam Davis, CDFG, Yountville, CA
Rich Marovich, Solano County Water Agency, Elmira, CA
Chris Lee, Solano County Water Agency, Elmira, CA
Kurt Balasek, Wallace Kuhl & Associates, West Sacramento, CA

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO CA 95814-2922

RECEIVED
JAN 23 2009
SOLANO COUNTY
WATER AGENCY

REPLY TO
ATTENTION OF

January 15, 2009

Regulatory Division (SPK-2008-01215)

Mr. Rich Marovich
6040 Vaca Station Road
Elmira, California 95625

Dear Mr. Marovich:

We are responding to your consultant's request for an approved jurisdictional determination for the Winters Putah Creek Percolation Dam Removal Project. This approximately 1.47-acre site is located in Section 22, Township 8 North, Range 1 West, MDB&M, Latitude 38.5217191° North, Longitude 121.9639312° West, City of Winters, Solano and Yolo Counties, California.

Based on available information, we concur with the estimate of waters of the United States, as depicted on the January 9, 2009 *Figure 7, Wetland Delineation Map Winters Putah Creek Percolation Dam Removal* drawing prepared by Wallace Kuhl and Associates, Inc. Approximately 0.79-acres of waters of the United States are present within the survey area. This water is regulated under Section 404 of the Clean Water Act, since it is a relatively permanent water that is directly tributary to Prospect Slough, a TNW.

This verification is valid for five years from the date of this letter, unless new information warrants revision of the determination before the expiration date. This letter contains an approved jurisdictional determination for your subject site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331.

A Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form is enclosed. If you request to appeal this determination you must submit a completed RFA form to the South Pacific Division Office at the following address: Administrative Appeal Review Officer, Army Corps of Engineers, South Pacific Division, CESPD-PDS-O, 1455 Market Street, San Francisco, California 94103-1399, Telephone: 415-503-6574, FAX: 415-503-6646.

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the NAP. Should you decide to submit an RFA form, it must be received at the above address by 60 days from the date of this letter. It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this letter.

You should provide a copy of this letter and notice to all other affected parties, including any individual who has an identifiable and substantial legal interest in the property.

This determination has been conducted to identify the limits of Corps of Engineers' Clean Water Act jurisdiction for the particular site identified in this request. This determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service, prior to starting work.

We appreciate your feedback. At your earliest convenience, please complete our customer survey at *http://www.spk.usace.army.mil/customer_survey.html*. Your passcode is "conigliaro".

Please refer to identification number SPK-2008-01215 in any correspondence concerning this project. If you have any questions, please contact Marc Fugler at our California South Branch, email *marc.a.fugler@usace.army.mil*, or telephone (916) 557- 5255. You may also visit our website: *www.spk.usace.army.mil/regulatory.html*.

Sincerely,

Kathleen A. Dadey, Ph.D.
Chief, California South Branch

Enclosure(s)

Copy Furnished without enclosure(s)

Mr. William Marshall, Storm Water and Water Quality Certification Unit, Central Valley Regional Water Quality Control Board, 11020 Sun Center Drive #200, Rancho Cordova, California 95670

Mr. Kent Smith, California Department of Fish and Game Region 2, 1701 Nimbus Drive, Rancho Cordova, California 95670-4599

Mr. Peter Cross, U.S. Fish and Wildlife Service, Endangered Species Division, 2800 Cottage Way, Suite W2605, Sacramento, California 95825-3901

Mr. Dave Smith, U.S. EPA US EPA Water Division, WTR8, 75 Hawthorne St., San Francisco, California 94105

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Mr. Rich Marovich	File No.: SPK-2008-01215	Date: January 15, 2009

Attached is:		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
✓	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional Information may be found at *http://www.usace.army.mil/inet/functions/cw/cecwo/reg* or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the DISTRICT engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- OBJECT: If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the DISTRICT engineer. Your objections must be received by the DISTRICT engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the DISTRICT engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the DISTRICT engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the DISTRICT engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- APPEAL: If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the DIVISION (not district) engineer (address on reverse). This form must be received by the DIVISION engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the DIVISION (not district) engineer (address on reverse). This form must be received by the DIVISION (not district) engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- ACCEPT: You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- APPEAL: If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the DIVISION (not district) engineer (address on reverse). This form must be received by the DIVISION engineer within 60 days of the date of this notice. Exception: JD appeals based on new information must be submitted to the DISTRICT engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:	If you only have questions regarding the appeal process you may also contact:
DISTRICT ENGINEER Sacramento District, Corps of Engineers Attn: Marc Fugler, Project Manager, Regulatory Division (916) 557- 5255, FAX (Use this address for submittals to the **DISTRICT** ENGINEER)	**DIVISION ENGINEER** Army Engineer Division, South Pacific, CESPD-CM-O Attn: Tom Cavanaugh, Administrative Appeal Review Officer, Army Corps of Engineers , CESPD-PDS-O, 1455 Market Street, San Francisco, CA 94103-1399 (415-503-6574, FAX 415-503-6646) (Use this address for submittals to the **DIVISION** ENGINEER)

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

	Date:	Telephone number:
_____ Signature of appellant or agent.		

Nationwide Permit Summary

U S Army Corps of Engineers
Sacramento District

33 CFR Part 330; Issuance of Nationwide Permits – March 19, 2007 includes corrections of May 8, 2007 and addition of regional conditions December 2007

27. Aquatic Habitat Restoration, Establishment, and Enhancement Activities. Activities in waters of the United States associated with the restoration, enhancement, and establishment of tidal and non-tidal wetlands and riparian areas and the restoration and enhancement of non-tidal streams and other non-tidal open waters, provided those activities result in net increases in aquatic resource functions and services.

To the extent that a Corps permit is required, activities authorized by this NWP include, but are not limited to: the removal of accumulated sediments; the installation, removal, and maintenance of small water control structures, dikes, and berms; the installation of current deflectors; the enhancement, restoration, or establishment of riffle and pool stream structure; the placement of in-stream habitat structures; modifications of the stream bed and/or banks to restore or establish stream meanders; the backfilling of artificial channels and drainage ditches; the removal of existing drainage structures; the construction of small nesting islands; the construction of open water areas; the construction of oyster habitat over unvegetated bottom in tidal waters; shellfish seeding; activities needed to reestablish vegetation, including plowing or discing for seed bed preparation and the planting of appropriate wetland species; mechanized land clearing to remove non-native invasive, exotic, or nuisance vegetation; and other related activities. Only native plant species should be planted at the site.

This NWP authorizes the relocation of non-tidal waters, including non-tidal wetlands and streams, on the project site provided there are net increases in aquatic resource functions and services.

Except for the relocation of non-tidal waters on the project site, this NWP does not authorize the conversion of a stream or natural wetlands to another aquatic habitat type (e.g., stream to wetland or vice versa) or uplands. This NWP does not authorize stream channelization. This NWP does not authorize the relocation of tidal waters or the conversion of tidal waters, including tidal wetlands, to other aquatic uses, such as the conversion of tidal wetlands into open water impoundments.

Reversion. For enhancement, restoration, and establishment activities conducted:

(1) In accordance with the terms and conditions of a binding wetland enhancement, restoration, or establishment agreement between the landowner and the U.S. Fish and Wildlife Service (FWS), the Natural Resources Conservation Service (NRCS), the Farm Service Agency (FSA), the National Marine Fisheries Service (NMFS), the National Ocean Service (NOS), or their designated state cooperating agencies;

(2) as voluntary wetland restoration, enhancement, and establishment actions documented by the NRCS or USDA Technical Service Provider pursuant to NRCS Field Office Technical Guide standards; or

(3) on reclaimed surface coal mine lands, in accordance with a Surface Mining Control and Reclamation Act permit issued by the OSM or the applicable state agency, this NWP also authorizes any future discharge of dredged or fill material associated with the reversion of the area to its documented prior condition and use (i.e., prior to the restoration, enhancement, or establishment activities). The reversion must occur within five years after expiration of a limited term wetland restoration or establishment agreement or permit, and is authorized in these circumstances even if the discharge occurs after this NWP expires. The five-year reversion limit does not apply to agreements without time limits reached between the landowner and the FWS, NRCS, FSA, NMFS, NOS, or an appropriate state cooperating agency. This NWP also authorizes discharges of dredged or fill material in waters of the United States for the reversion of wetlands that were restored, enhanced, or established on prior-converted cropland that has not been abandoned or on uplands, in accordance with a binding agreement between the landowner and NRCS, FSA, FWS, or their designated state cooperating agencies (even though the restoration, enhancement, or establishment activity did not require a section 404 permit). The prior condition will be documented in the original agreement or permit, and the determination of return to prior conditions will be made by the Federal agency or appropriate state agency executing the agreement or permit. Before conducting any reversion activity the permittee or the appropriate Federal or state agency must notify the district engineer and include the documentation of the prior condition. Once an area has reverted to its prior physical condition, it will be subject to whatever the Corps Regulatory requirements are applicable to that type of land at the time. The requirement that the activity result in a net increase in aquatic resource functions and services does not apply to reversion activities meeting the above conditions. Except for the activities described above, this NWP does not authorize any future discharge of dredged or fill material associated with the reversion of the area to its prior condition. In such cases a separate permit would be required for any reversion.

Reporting: For those activities that do not require pre-construction notification, the permittee must submit to the district engineer a copy of: (1) The binding wetland enhancement, restoration, or establishment agreement, or a project description, including project plans and location map; (2) the NRCS or USDA Technical Service Provider documentation for the voluntary wetland restoration, enhancement, or establishment action; or (3) the SMCRA permit issued by OSM or the applicable state agency. These documents must be submitted to the district engineer at least 30 days prior to commencing activities in waters of the United States authorized by this NWP.

Notification. The permittee must submit a pre-construction notification to the district engineer prior to commencing the

activity (see general condition 27), except for the following activities:

(1) Activities conducted on non-Federal public lands and private lands, in accordance with the terms and conditions of a binding wetland enhancement, restoration, or establishment agreement between the landowner and the U.S. FWS, NRCS, FSA, NMFS, NOS, or their designated state cooperating agencies;

(2) Voluntary wetland restoration, enhancement, and establishment actions documented by the NRCS or USDA Technical Service Provider pursuant to NRCS Field Office Technical Guide standards; or

(3) The reclamation of surface coal mine lands, in accordance with an SMCRA permit issued by the OSM or the applicable state agency.

However, the permittee must submit a copy of the appropriate documentation.(Sections 10 and 404)

Note: This NWP can be used to authorize compensatory mitigation projects, including mitigation banks and in-lieu fee programs. However, this NWP does not authorize the reversion of an area used for a compensatory mitigation project to its prior condition, since compensatory mitigation is generally intended to be permanent.

A. Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as appropriate, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP.

☐ **1. Navigation.**

☐ (a) No activity may cause more than a minimal adverse effect on navigation.

☐ (b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

☐ (c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

☐ **2. Aquatic Life Movements.** No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.

☐ **3 Spawning Areas.** Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

☐ **4. Migratory Bird Breeding Areas.** Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

☐ **5. Shellfish Beds.** No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48.

☐ **6. Suitable Material.** No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

☐ **7. Water Supply Intakes.** No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

☐ **8. Adverse Effects From Impoundments.** If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

☐ **9. Management of Water Flows.** To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

☐ **10. Fills Within 100-Year Floodplains.** The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

☐ **11. Equipment.** Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

☐ **12. Soil Erosion and Sediment Controls.** Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are

encouraged to perform work within waters of the United States during periods of low-flow or no-flow.

☐ **13. Removal of Temporary Fills**. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

☐ **14. Proper Maintenance**. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety.

☐ **15. Wild and Scenic Rivers**. No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

☐ **16. Tribal Rights**. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

☐ **17. Endangered Species.**

☐ (a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

☐ (b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

☐ (c) Non-federal permittees shall notify the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed.

☐ (d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWPs.

☐ (e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. FWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their world wide Web pages at http://www.fws.gov/ and http://www.noaa.gov/fisheries.html respectively.

☐ **18. Historic Properties.**

☐ (a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

☐ (b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

☐ (c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey.

Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

☐ (d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed.

☐ (e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, explaining the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

☐ **19. Designated Critical Resource Waters.** Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the district engineer after notice and opportunity for public comment. The district engineer may also designate additional critical resource waters after notice and opportunity for comment.

☐ (a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, and 50 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

☐ (b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 27, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

☐ **20 Mitigation.** The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

☐ (a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

☐ (b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

☐ (c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10 acre and require pre-construction notification, unless the district engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. For wetland losses of 1/10 acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

☐ (d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream restoration, to ensure that the activity results in minimal adverse effects on the aquatic environment.

☐ (e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2 acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2 acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWPs.

☐ (f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required.

Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

☐ (g) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

☐ (h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

☐ **21. Water Quality.** Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

☐ **22. Coastal Zone Management**. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

☐ **23. Regional and Case-By-Case Conditions**. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

☐ **24. Use of Multiple Nationwide Permits**. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

☐ **25. Transfer of Nationwide Permit Verifications**. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

"When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

(Transferee)

(Date)

☐ **26. Compliance Certification**. Each permittee who received an NWP verification from the Corps must submit a signed certification regarding the completed work and any required mitigation. The certification form must be forwarded by the Corps with the NWP verification letter and will include:

☐ (a) A statement that the authorized work was done in accordance with the NWP authorization, including any general or specific conditions;

☐ (b) A statement that any required mitigation was completed in accordance with the permit conditions; and

☐ (c) The signature of the permittee certifying the completion of the work and mitigation.

☐ **27. Pre-Construction Notification.**

☐ (a) **Timing**.. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, as a general rule, will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

☐ (1) He or she is notified in writing by the district engineer that the activity may proceed under

the NWP with any special conditions imposed by the district or division engineer; or

☐ (2) Forty-five calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 17 that listed species or critical habitat might affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 18 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) is completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee cannot begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

☐ (b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:

☐ (1) Name, address and telephone numbers of the prospective permittee;

☐ (2) Location of the proposed project;

☐ (3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided result in a quicker decision.);

☐ (4) The PCN must include a delineation of special aquatic sites and other waters of the United States on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters of the United States, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, where appropriate;

☐ (5) If the proposed activity will result in the loss of greater than 1/10 acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

☐ (6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

☐ (7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

☐ (c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

☐ (d) Agency Coordination:

☐ (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

☐ (2) For all NWP 48 activities requiring pre-construction notification and for other NWP activities requiring pre-construction notification to the district engineer that result in the loss of greater than 1/2-acre of waters of the United States, the district engineer will immediately provide (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy of the PCN to the appropriate Federal

or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

☐ (3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

☐ (4) Applicants are encouraged to provide the Corps multiple copies of pre-construction notifications to expedite agency coordination.

☐ (5) For NWP 48 activities that require reporting, the district engineer will provide a copy of each report within 10 calendar days of receipt to the appropriate regional office of the NMFS.

☐ (e) In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If the proposed activity requires a PCN and will result in a loss of greater than 1/10 acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any conditions the district engineer deems necessary. The district engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP.

If the district engineer determines that the adverse effects of the proposed work are more than minimal, then the district engineer will notify the applicant either: (1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or (3) that the project is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan.

☐ **(a) 28. Single and Complete Project.** The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

B. Regional Conditions:

I. Sacramento District (All States, except Colorado)

1. When pre-construction notification (PCN) is required, the prospective permittee shall notify the Sacramento District in accordance with General Condition 27 using either the South Pacific Division Preconstruction Notification (PCN) Checklist or a completed application form (ENG Form 4345). In addition, the PCN shall include:

a. A written statement explaining how the activity has been designed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States;

b. Drawings, including plan and cross-section views, clearly depicting the location, size and dimensions of the proposed activity. The drawings shall contain a title

block, legend and scale, amount (in cubic yards) and size (in acreage) of fill in Corps jurisdiction, including both permanent and temporary fills/structures. The ordinary high water mark or, if tidal waters, the high tide line should be shown (in feet), based on National Geodetic Vertical Datum (NGVD) or other appropriate referenced elevation; and

c. Pre-project color photographs of the project site taken from designatedlocations documented on the plan drawing.

2. The permittee shall complete compensatory mitigation required by special conditions of the NWP verification before or concurrent with construction of the authorized activity, except when specifically determined to be impracticable by the Sacramento District. When project mitigation involves use of a mitigation bank or in-lieu fee program, payment shall be made before commencing construction.

3. The permittee shall record the NWP verification with the Registrar of Deeds or other appropriate official charged with the responsibility for maintaining records of title to or interest in real property against areas (1) designated to be preserved as part of mitigation for authorized impacts, including any associated covenants or restrictions, or (2) where structures such as boat ramps or docks, marinas, piers, and permanently moored vessels will be constructed in or adjacent to navigable waters (Section 10 and Section 404). The recordation shall also include a map showing the surveyed location of the authorized structure and any associated areas preserved to minimize or compensate for project impacts.

4. The permittee shall place wetlands, other aquatic areas, and any vegetative buffers preserved as part of mitigation for impacts into a separate "preserve" parcel prior to discharging dredged or fill material into waters of the United States, except where specifically determined to be impracticable by the Sacramento District. Permanent legal protection shall be established for all preserve parcels, following Sacramento District approval of the legal instrument.

5. The permittee shall allow Corps representatives to inspect the authorized activity and any mitigation areas at any time deemed necessary to determine compliance with the terms and conditions of the NWP verification. The permittee will be notified in advance of an inspection.

6. For NWPs 29, 39, 40, 42, 43, 44, and 46, requests to waive the 300 linear foot limitation for intermittent or ephemeral waters of the U.S. shall include an evaluation of functions and services provided by the waterbody taking into account the watershed, measures to be implemented to avoid and minimize impacts, other measures to avoid and minimize that were found to be impracticable, and a mitigation plan for offsetting impacts.

7. Road crossings shall be designed to ensure fish passage, especially for anadromous fisheries. Permittees shall employ bridge designs that span the stream or river, utilize pier or pile supported structures, or involve large bottomless culverts with a natural streambed, where the substrate and streamflow conditions approximate existing channel conditions. Approach fills in waters of the United States below the ordinary high water mark are not authorized under the NWPs, except where avoidance has specifically been determined to be impracticable by the Sacramento District.

8. For NWP 12, clay blocks, bentonite, or other suitable material shall be used to seal the trench to prevent the utility line from draining waters of the United States, including wetlands.

9. For NWP 13, bank stabilization shall include the use of vegetation or other biotechnical design to the maximum extent practicable. Activities involving hard-armoring of the bank toe or slope requires submission of a PCN per General Condition 27.

10. For NWP 23, the PCN shall include a copy of the signed Categorical Exclusion document and final agency determinations regarding compliance with Section 7 of the Endangered Species Act, Essential Fish Habitat under the Magnussen-Stevens Act, and Section 106 of the National Historic Preservation Act.

11. For NWP 44, the discharge shall not cause the loss of more than 300 linear feet of streambed. For intermittent and ephemeral streams, the 300 linear foot limit may be waived in writing by the Sacramento District. This NWP does not authorize discharges in waters of the United States supporting anadromous fisheries.

12. For NWPs 29 and 39, channelization or relocation of intermittent or perennial drainage, is not authorized, except when, as determined by the Sacramento District, the relocation would result in a net increase in functions of the aquatic ecosystem within the watershed.

13. For NWP 33, temporary fills for construction access in waters of the United States supporting fisheries shall be accomplished with clean, washed spawning quality gravels where practicable as determined by the Sacramento District, in consultation with appropriate federal and state wildlife agencies.

14. For NWP 46, the discharge shall not cause the loss of greater than 0.5 acres of waters of the United States or the loss of more than 300 linear feet of ditch, unless this 300 foot linear foot limit is waived in writing by the Sacramento District.

15. For NWPs 29, 39, 40, 42, and 43, upland vegetated buffers shall be established and maintained in perpetuity, to the maximum extent practicable, next to all preserved open waters, streams and wetlands including created, restored, enhanced or preserved waters of the U.S., consistent with General Condition 20. Except in unusual circumstances, vegetated buffers shall be at least 50 feet in width.

16. All NWPs except 3, 6, 20, 27, 32, 38, and 47, are revoked for activities in histosols and fens and in wetlands contiguous with fens. Fens are defined as slope wetlands with a histic epipedon that are hydrologically supported by groundwater. Fens are normally saturated throughout the growing season, although they may not be during drought conditions. For NWPs 3, 6, 20, 27, 32, and 38, prospective permittees shall submit a PCN to the Sacramento District in accordance with General Condition 27.

17. For all NWPs, when activities are proposed within 100 feet of the point of groundwater discharge of a natural spring, prospective permittees shall submit a PCN to the Sacramento District in accordance with General Condition 27. A spring source is defined as any location where ground water emanates from a point in the ground. For purposes of this condition,

springs do not include seeps or other discharges which lack a defined channel.

II. California Only

1. In the Lake Tahoe Basin, all NWPs are revoked. Activities in this area shall be authorized under Regional General Permit 16 or through an individual permit.

2. In the Primary and Secondary Zones of the Legal Delta, NWPs 29 and 39 are revoked. New development activities in the Legal Delta will be reviewed through the Corps' standard permit process.

III. Nevada Only

1. In the Lake Tahoe Basin, all NWPs are revoked. Activities in this area shall be authorized under Regional General Permit 16 or through an individual permit.

IV. Utah Only

1. For all NWPs, except NWP 47, prospective permittees shall submit a PCN in accordance with General Condition 27 for any activity, in waters of the United States, below 4217 feet mean sea level (msl) adjacent to the Great Salt Lake and below 4500 feet msl adjacent to Utah Lake.

2. A PCN is required for all bank stabilization activities in a perennial stream that would affect more than 100 linear feet of stream

3. For NWP 27, facilities for controlling stormwater runoff, construction of water parks such as kayak courses, and use of grout or concrete to construct in-stream structures are not authorized. A PCN is required for all projects exceeding 1500 linear feet as measured on the stream thalweg, using in stream structures exceeding 50 cubic yards per structure and/or incorporating grade control structures exceeding 1 foot vertical drop. For any stream restoration project, the post project stream sinuosity shall be appropriate to the geomorphology of the surrounding area and shall be equal to, or greater than, pre project sinuosity. Sinuosity is defined as the ratio of stream length to project reach length. Structures shall allow the passage of aquatic organisms, recreational water craft or other navigational activities unless specifically waived in writing by the District Engineer.

V. Colorado Only

1. Final Regional Conditions Applicable to Specific Nationwide Permits within Colorado.

a. Nationwide Permit Nos. 12 and 14, Utility Line Activities and Linear Transportation Projects. In the Colorado River Basin, utility line and road activities crossing perennial water or special aquatic sites require notification to the District Engineer in accordance with General Condition 27 (Pre-Construction Notification).

b. Nationwide Permit No. 13 Bank Stabilization. In Colorado, bank stabilization activities necessary for erosion prevention in streams that average less than 20 feet in width (measured between the ordinary high water marks) are limited to the placement of no more than 1/4 cubic yard of suitable fill* material per running foot below the plane of the ordinary high water mark. Activities greater than 1/4 cubic yard may be authorized if the permittee notifies the District Engineer in accordance with General Condition 27 (Pre-Construction Notification) and the Corps determines the adverse environmental effects are minimal. [* See (g) for definition of Suitable Fill]

c. Nationwide Permit No. 27 Aquatic Habitat Restoration, Establishment, and Enhancement Activities.

(1) For activities that include a fishery enhancement component, the Corps will send the Pre-Construction Notification to the Colorado Division of Wildlife (CDOW) for review. In accordance with General Condition 27 (Pre-Construction Notification), CDOW will have 10 days from the receipt of Corps notification to indicate that they will be commenting on the proposed project. CDOW will then have an additional 15 days after the initial 10-day period to provide those comments. If CDOW raises concerns, the applicant may either modify their plan, in coordination with CDOW, or apply for a standard individual permit.

(2) For activities involving the length of a stream, the post-project stream sinuosity will not be significantly reduced, unless it is demonstrated that the reduction in sinuosity is consistent with the natural morphological evolution of the stream (sinuosity is the ratio of stream length to project reach length).

(3) Structures will allow the upstream and downstream passage of aquatic organisms, including fish native to the reach, as well as recreational water craft or other navigational activities, unless specifically waived in writing by the District Engineer. The use of grout and/or concrete in building structures is not authorized by this nationwide permit.

(4) The construction of water parks (i.e., kayak courses) and flood control projects are not authorized by this nationwide permit.

d. Nationwide Permits Nos. 29 and 39; Residential Developments and Commercial and Institutional Developments. A copy of the existing FEMA/locally-approved floodplain map must be submitted with the Pre-Construction Notification. When reviewing proposed developments, the Corps will utilize the most accurate and reliable FEMA/locally-approved pre-project floodplain mapping, not post-project floodplain mapping based on a CLOMR or LOMR. However, the Corps will accept revisions to existing floodplain mapping if the revisions resolve inaccuracies in the original floodplain mapping and if the revisions accurately reflect pre-project conditions.

2. Final Regional Conditions Applicable to All Nationwide Permits within Colorado

e. Removal of Temporary Fills. General Condition 13 (Removal of Temporary Fills) is amended by adding the following: When temporary fills are placed in wetlands in Colorado, a horizontal marker (i.e. fabric, certified weed-free straw, etc.) must be used to delineate the existing

ground elevation of wetlands that will be temporarily filled during construction.

f. Spawning Areas. General Condition 3 (Spawning Areas) is amended by adding the following: In Colorado, all Designated Critical Resource Waters (see enclosure 1) are considered important spawning areas. Therefore, In accordance with General Condition 19 (Designated Critical Resource Waters), the discharge of dredged or fill material in not authorized by the following nationwide permits in these waters: NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, and 50. In addition, in accordance with General Condition 27 (Pre-Construction Notification), notification to the District Engineer is required for use of the following nationwide permits in these waters: NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37 and 38".

g. Suitable Fill. In Colorado, use of broken concrete as fill material requires notification to the District Engineer in accordance with General Condition 27 (Pre-Construction Notification). Permittees must demonstrate that soft engineering methods utilizing native or non-manmade materials are not practicable (with respect to cost, existing technology, and logistics), before broken concrete is allowed as suitable fill. Use of broken concrete with exposed rebar is prohibited in perennial waters and special aquatic sites.

h. Invasive Aquatic Species. General Condition 11 is amended by adding the following condition for work in perennial or intermittent waters of the United States: If heavy equipment is used for the subject project that was previously working in another stream, river, lake, pond, or wetland within 10 days of initiating work, one the following procedures is necessary to prevent the spread of New Zealand Mud Snails and other aquatic hitchhikers:

(1) Remove all mud and debris from equipment (tracks, turrets, buckets, drags, teeth, etc.) and keep the equipment dry for 10 days. OR

(2) Remove all mud and debris from Equipment (tracks, turrets, buckets, drags, teeth, etc.) and spray/soak equipment with either a 1:1 solution of Formula 409 Household Cleaner and water, or a solution of Sparquat 256 (5 ounces Sparquat per gallon of water). Treated equipment must be kept moist for at least 10 minutes. OR

(3) Remove all mud and debris from equipment (tracks, turrets, buckets, drags, teeth, etc.) and spray/soak equipment with water greater than 120 degrees F for at least 10 minutes.

3. Final Regional Conditions for Revocation/Special Notification Specific to Certain Geographic Areas

i. Fens: All Nationwide permits, except permit Nos. 3, 6, 20, 27, 32, 38 and 47, are revoked in fens and wetlands adjacent to fens. Use of nationwide permit Nos. 3, 20, 27 and 38, requires notification to the District Engineer, in accordance with General Condition 27 (Pre-Construction Notification), and the permittee may not begin the activity until the Corps determines the adverse environmental effects are minimal. The following defines a fen:

Fen soils (histosols) are normally saturated throughout the growing season, although they may not be during drought conditions. The primary source of hydrology for fens is groundwater. Histosols are defined in accordance with the U.S. Department of Agriculture, Natural Resources Conservation Service publications on Keys to Soil Taxonomy and Field Indicators of Hydric Soils in the United States (http://soils.usda.gov/technical/classification/taxonomy).

j. Springs: Within the state of Colorado, all NWPs, except permit 47 (original 'C'), require preconstruction notification pursuant to General Condition 27 for discharges of dredged or fill material within 100 feet of the point of groundwater discharge of natural springs. A spring source is defined as any location where groundwater emanates from a point in the ground. For purposes of this regional condition, springs do not include seeps or other discharges which do not have a defined channel.

4. Additional Information

The following provides additional information regarding minimization of impacts and compliance with existing general Conditions:

a. Permittees are reminded of the existing General Condition No. 6 which prohibits the use of unsuitable material. Organic debris, building waste, asphalt, car bodies, and trash are not suitable material. Also, General Condition 12 requires appropriate erosion and sediment controls (i.e. all fills must be permanently stabilized to prevent erosion and siltation into waters and wetlands at the earliest practicable date). Streambed material or other small aggregate material placed along a bank as stabilization will not meet General Condition 12. Also, use of erosion control mates that contain plastic netting may not meet General Condition 12 if deemed harmful to wildlife.

b. Designated Critical Resource Waters in Colorado. In Colorado, a list of designated Critical Resource Waters has been published in accordance with General Condition 19 (Designated Critical Resource Waters). This list will be published on the Albuquerque District Regulatory home page (http://www.spa.usace.army.mil/reg/)

c. Federally-Listed Threatened and Endangered Species. General condition 17 requires that nod-federal permittees notify the District Engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project. Information on such species, to include occurrence by county in Colorado, may be found at the following U.S. Fish and Wildlife Service website: http://www.fws.gov/mountain%2Dprairie/endspp/name_county_search.htm

C. Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.

2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.

3. NWPs do not grant any property rights or exclusive privileges.

4. NWPs do not authorize any injury to the property or rights of others.

5. NWPs do not authorize interference with any existing or proposed Federal project.

D. Definitions

Best management practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Compensatory mitigation: The restoration, establishment (creation), enhancement, or preservation of aquatic resources for the purpose of compensating for unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Currently serviceable: Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Discharge: The term "discharge" means any discharge of dredged or fill material.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Ephemeral stream: An ephemeral stream has flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

Independent utility: A test to determine what constitutes a single and complete project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Intermittent stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities eligible for exemptions under Section 404(f) of the Clean Water Act are not considered when calculating the loss of waters of the United States.

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. The definition of a wetland can be found at 33 CFR 328.3(b). Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

Open water: For purposes of the NWPs, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of standing or flowing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of "open waters" include rivers, streams, lakes, and ponds.

Ordinary High Water Mark: An ordinary high water mark is a line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas (see 33 CFR 328.3(e)).

Perennial stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Pre-construction notification: A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The request may be a permit application, letter, or similar document that includes

information about the proposed work and its anticipated environmental effects. Pre-construction notification may be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where pre-construction notification is not required and the project proponent wants confirmation that the activity is authorized by nationwide permit.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a course substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands adjacent to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects waterbodies with their adjacent uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 20.)

Shellfish seeding: The placement of shellfish seed and/or suitable substrate to increase shellfish production. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments (i.e., spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

Single and complete project: The term "single and complete project" is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete project must have independent utility (see definition). For linear projects, a "single and complete project" is all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single waterbody several times at separate and distant locations, each crossing is considered a single and complete project. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

Stormwater management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater management facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

Stream bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Stream channelization: The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized stream remains a water of the United States.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Tidal wetland: A tidal wetland is a wetland (i.e., water of the United States) that is inundated by tidal waters. The definitions of a wetland and tidal waters can be found at 33 CFR 328.3(b) and 33 CFR 328.3(f), respectively. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line, which is defined at 33 CFR 328.3(d).

Vegetated shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: For purposes of the NWPs, a waterbody is a jurisdictional water of the United States that, during a year with normal patterns of precipitation, has water flowing or standing

above ground to the extent that an ordinary high water mark (OHWM) or other indicators of jurisdiction can be determined, as well as any wetland area (see 33 CFR 328.3(b)). If a jurisdictional wetland is adjacent--meaning bordering, contiguous, or neighboring--to a jurisdictional waterbody displaying an OHWM or other indicators of jurisdiction, that waterbody and its adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)). Examples of "waterbodies" include streams, rivers, lakes, ponds, and wetlands.

Linda S. Adams
Secretary for Environmental Protection

California Regional Water Quality Control Board
Central Valley Region

Karl E. Longley, ScD, P.E., Chair

11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114
Phone (916) 464-3291 • FAX (916) 464-4645
http://www.waterboards.ca.gov/centralvalley

Arnold Schwarzenegger
Governor

RECEIVED
FEB 09 2009
SOLANO COUNTY WATER AGENCY

30 January 2009

Rich Marovich
6040 Vaca Station Road
Elmira, CA 95625

CLEAN WATER ACT §401 TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION FOR DISCHARGE OF DREDGED AND/OR FILL MATERIALS FOR THE WINTERS PUTAH CREEK PERCOLATION DAM REMOVAL PROJECT, (WDID#5A57CR00075) YOLO COUNTY

WATER QUALITY CERTIFICATION STANDARD CONDITIONS:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and §3867 of Title 23 of the California Code of Regulations (23 CCR).

2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

3. The validity of any non-denial certification action shall be conditioned upon total payment of the full fee required under 23 CCR §3833, unless otherwise stated in writing by the certifying agency.

4. Certification is valid for the duration of the described project. Discharger shall notify the Regional Board in writing within 7 days of project completion.

ADDITIONAL TECHNICALLY CONDITIONED CERTIFICATION CONDITIONS:

In addition to the four standard conditions, the applicant shall satisfy the following:

1. Rich Marovich shall notify the Board in writing of the start of any in-water activities.

2. Except for activities permitted by the U.S. Army Corps under §404 of the Clean Water Act, soil, silt, or other organic materials shall not be placed where such materials could pass into surface water or surface water drainage courses.

3. The discharge of petroleum products or other excavated materials to surface water is prohibited.

4. Activities shall not cause turbidity increases in surface water to exceed:

   (a) where natural turbidity is between 0 and 5 Nephelometric Turbidity Units (NTUs), increases shall not exceed 1 NTU;
   (b) where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent;
   (c) where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs;
   (d) where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.

   Except that these limits will be eased during in-water working periods to allow a turbidity increase of 15 NTU over background turbidity as measured in surface waters 300 feet downstream from the working area. In determining compliance with the above limits, appropriate averaging periods may be applied provided that beneficial uses will be fully protected.

5. Activities shall not cause settleable matter to exceed 0.1ml/l in surface waters as measured in surface waters 300 feet downstream from the project.

6. Activities shall not cause visible oil, grease, or foam in the work area or downstream.

7. All areas disturbed by project activities shall be protected from washout or erosion.

8. In the event that project activities result in the deposition of soil materials or creation of a visible plume in surface waters, the following monitoring shall be conducted immediately upstream and 300 feet downstream of the work site and the results reported to this office within two weeks:

Parameter	Unit	Type of Sample	Frequency of Sample
Turbidity	NTU	Grab	Every 4 hours during in water work
Settleable Material	ml/l	Grab	Same as above.

9. Rich Marovich shall notify the Board immediately if the above criteria for turbidity, settleable matter, oil/grease, or foam are exceeded.

10. Rich Marovich shall notify the Board immediately of any spill of petroleum products or other organic or earthen materials.

11. Rich Marovich shall comply with all Department of Fish and Game 1600 requirements for the project.

12. Putah Creek is a 303d listed water quality limited segment for mercury and methyl mercury. The purpose of this condition is to provide notice to the applicant that additional mercury and methyl mercury discharge limitations and monitoring requirements may apply to this project at some time in the future and also to provide notice of the Regional Water Board's TMDL process and that elements of the planned construction may be subject to a TMDL allocation.

13. The applicant must ensure mercury-laden sediments within the active channel of Putah Creek are specifically not mobilized. Appropriate erosion and siltation controls must be used and maintained in effective operating condition during all phases of construction. All exposed soil and other fills, as well as any work below the ordinary high water mark must be permanently stabilized.

14. Rich Marovich must obtain coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction Activities issued by the State Water Resources Control Board.

REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

Patrick G. Gillum, Environmental Scientist
11020 Sun Center Drive #200
Rancho Cordova, California 95670-6114
(916) 464-4709
pgillum@waterboards.ca.gov

WATER QUALITY CERTIFICATION:

I hereby issue an order certifying that any discharge from Rich Marovich, Winters Putah Creek Percolation Dam Removal Project (WDID#5A57CR00075) will comply with the applicable provisions of §301 ("Effluent Limitations"), §302 ("Water Quality Related Effluent Limitations"), §303 ("Water Quality Standards and Implementation Plans"), §306 ("National Standards of Performance"), and §307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. This discharge is also regulated under State Water Resources Control Board Water Quality Order No. 2003-0017 DWQ "Statewide General Waste Discharge Requirements For Dredged Or Fill Discharges That Have Received State Water Quality Certification (General WDRs)".

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicant's project description and the attached Project Information Sheet, and (b) compliance with all applicable requirements of the Regional Water Quality Control Board's Water Quality Control Plan (Basin Plan).

for PAMELA C. CREEDON
Executive Officer

Enclosure: Project Information

cc: See Distribution List, Page 7

PROJECT INFORMATION

Application Date: 5 December 2008

Applicant: Rich Marovich
6040 Vaca Station Road
Elmira, CA 95625

Applicant Representatives: Erik Ringelberg
Wallace-Kuhl & Associates, Inc.
3251 Beacon Blvd., Suite 300
West Sacramento, CA 95631

Project Name: Winters Putah Creek Percolation Dam Removal Project

Application Number: WDID#5A57CR00075

U.S. Army Corps File Number: Nationwide Permit #27

Type of Project: Dam Removal Project

Project Location: Section 21 and 22, Township 8 North, Range 1 West, MDB&M. Latitude: 38°31'24.24" and Longitude: 121°57'44.52".

County: Yolo County

Receiving Water(s) (hydrologic unit): Putah Creek, Sacramento Hydrologic Basin, Valley-American Hydrologic Unit #519.21, Lower American HSA

Water Body Type: Wetlands

Designated Beneficial Uses: The Basin Plan for the Central Valley Regional Board has designated beneficial uses for surface and ground waters within the region. Beneficial uses that could be impacted by the project include: Municipal and Domestic Water Supply (MUN); Agricultural Supply (AGR); Industrial Supply (IND), Hydropower Generation (POW); Groundwater Recharge, Water Contact Recreation (REC-1); Non-Contact Water Recreation (REC-2); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD); and Wildlife Habitat (WILD).

Project Description (purpose/goal): The Winters Putah Creek Percolation Dam Removal Project consists of the removal of an abandoned percolation dam that spans Putah Creek; stream recontouring and in-channel structural improvements; bank stabilization; and habitat enhancement based on a vegetation management plan. The project will also provide in stream habitat structure complexity. The final goal of the project is to restore the historic floodplain of Putah Creek. As part of re-establishing the historic floodplain, the channel will be narrowed and backfilled to grade.

The greatest potential impacts to water quality will be the removal of the percolation dam, realignment of the stream channel, and implementing channel stability measures (e.g.,

constructing weirs). The proposed creek realignment will narrow most of the creek to approximately 30 feet wide, with meanders and pools ranging from 130 to 240 feet apart. For the most part, the new creek bed will be shallower than its current depth. Wide floodplains, or terraces, will fan out from the creek banks for 30 to 100 feet on both sides of the creek. Where feasible, the creek banks will be extended, making the slopes less steep. These changes will return the creek to a dimension that reflects a more natural width and meander, similar to the creek above and below this stretch, and set up conditions that can be naturally sustaining. The wide flood plain will allow the creek to move within its banks, make it possible to restore the native vegetation, and open the park to the community.

Project mercury issues:

One of the purposes of this project is to reduce a significant seasonally anoxic pool in Winters Putah Creek Nature Park, by narrowing the stream, nominally increasing low flow velocities (while not changing high flows), and increasing dissolved oxygen through in stream structure. Each of these benefits should reduce the methylation of known mercury deposits in the Putah Creek watershed. Specific issues addressed by the project include:

- The weathered concrete (from the percolation dam) will be broken up, the rebar removed, and sized to a minus 6-inch diameter to provide base fill material for the restoration. The fill material will be placed in the first several lifts from approximately 12 feet below grade to approximately 10 feet below grade, and used to fill gabions or equivalent. The concrete fill material will not be visible.

- The percolation dam is only a seasonal barrier to sediment, and retains sediment only on the streambank "wings". Any sediment exposed during removal of the dam will remain in place.

- No material (sediment) will be removed from the watercourse. The base fill will be the weathered concrete, and the surface material (topdressing) will be clean, off-site topsoil fill. Several firms have expressed interest in providing material for the project, which would come from an upland road project that is removing an undisturbed hillside, and consists of clay, clayey loams, and topsoil. Wallace-Kuhl and Associates has reviewed the geotechnical data and has visited the borrow source where these materials originate to evaluate their suitability for the project.

- The success of the project for the community of Winters will rely on the rapid re-vegetation of the site with native plants. Any disturbed areas will be re-vegetated using the plan provided in the Nature Park Master Plan. Hydroseed will be sprayed on all bare soil areas, and groundcover will be established immediately. The revegetation program is designed to protect the soils from substantial erosion and siltation. In essence, the project itself is mitigating the temporary impacts to the water quality by enhancing and contributing to the long-term health of the watershed.

- The gabion design in the plans is a Maccaferri style rectangular woven-wire box, facing the stream. There is an alternate design that uses a woven fabric material that meets the same specification, but is easier to place. In either case, the bags will be filled with screened rocks (not taken from the channel).

- This restoration project will not result in new buried sediments within the channel being exposed. The restoration is intended and designed to bring the channel closer to its natural morphology. There is no apparent change in channel dynamics that will expose buried sediments. At the project site, there is no lower floodplain terrace to be exposed.

Preliminary Water Quality Concerns: The construction activities may impact surface waters with increased turbidity and settleable matter.

Proposed Mitigation to Address Concerns: Rich Marovich will implement Best Management Practices (BMPs) to control sedimentation and erosion. All temporary affected areas will be restored to pre-construction contours and conditions upon completion of construction activities. Rich Marovich will conduct turbidity and settleable matter testing during in water work, stopping work if Basin Plan criteria are exceeded or are observed.

Fill/Excavation Area: 355 cubic yards of weathered concrete and 1689 cubic yards of clean, import soil will be placed into 0.127 acre of jurisdictional wetland.

Dredge Volume: None

U.S. Army Corps of Engineers Permit Number: Nationwide Permit #27

Department of Fish and Game Streambed Alteration Agreement: Rich Marovich applied for a Streambed Alteration Agreement on 12 December 2008.

Possible Listed Species: Swainson's hawk, Valley Elderberry Longhorn Beetle (VELB), Fall-run Chinook salmon

Status of CEQA Compliance: The City of Winters approved the Mitigated Negative Declaration for this project on 27 May 2008 (State Clearinghouse Number 2008042018).

Compensatory Mitigation: This project is a mitigation project. 0.127 acre and 280 linear feet of jurisdictional wetland will be created. In addition, 1 acre of wetland will be restored and 0.5 acre of wetland will be enhanced onsite.

Application Fee Provided: Total fees of $650.00 have been submitted as required by 23 CCR §3833b(3)(A) and by 23 CCR §2200(e).

State of California – The Resources Agency
DEPARTMENT OF FISH AND GAME
http://www.dfg.ca.gov
North Central Region
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670
(916) 358-2900

ARNOLD SCHWARZENEGGER, Governor

L-8F

July 27, 2009

Chris Lee
Solano County Water Agency
6040 Vaca Station Road, P.O. Box 349
Elmira, CA 95625

Re: Lake or Streambed Alteration Notification
Notification No.: 1600-2009-0088-R2
Project Name: Winters Putah Creek Percolation Dam Removal
Water: Putah Creek
County: Yolo and Solano

Dear Chris-

The Department of Fish and Game (Department) received your request to amend the original streambed alteration agreement (Notification No. 1600-2009-0088-R2) to include activities not included in the original notification submitted to the Department. Your request to amend the agreement to remove material from the stream zone instead of use it onsite and to use an alternate area to access the site as part of the authorized project activities on Putah Creek is hereby granted under the conditions indicated below:

1. All of the conditions listed in the original agreement are still binding.

2. All work shall be done according to the plans submitted to the Department with the original notification unless superseded in your July 23, 2009 request to amend the original agreement.

3. Copy of this letter and a copy of the original agreement must be provided to contractor and subcontractors and must be in their possession at the work site.

The following changes reflected below are amended to your agreement:

The new project description is:

This project will remove a percolation dam. The south bank abutment and first segment of the dam on the south side may optionally remain if the budget does not allow for complete removal. The dam will be removed completely or to a depth of 15 feet below summer water surface elevation. Access will occur from the west through the Neil property immediately upstream of the Winters Car Bridge through a partially cleared path. Subsequent phases of the project will fill in the existing pool below the percolation dam and create a design channel through the future constructed floodplains. A staging

area will be created by removing vegetation from two former aeration ponds occupying 3 acres, that will be used and reused to receive clean imported fill for future floodplain restoration projects as funds are available.
The project area consists of 1200 linear feet of channel below the current location of the percolation dam and 1500 feet of access route above the percolation dam, inclusive of the dam. The area of the dam is 150 feet long and 30 feet wide (4500 square feet - 0.1 acre). The staging area on Putah Creek Flats including the access ramp is 3 acres. Total project area is 3.2 acres.

Condition 15 is changed to:

Two hundred and eight native trees averaging six inches in diameter will be removed from the three-acre staging area (800 linear feet) for this project. Eighty percent of these are willows; ten percent are valley oaks and the remaining 10 percent are cottonwoods, ash, boxelder and sycamore. Up to ten additional trees will be removed to facilitate access by haul trucks. The Lower Putah Creek Coordinating Committee (LPCCC) will re-vegetate all disturbed areas in future phases when final grade is achieved. Revegetation will focus on maximizing shade over the water, re-establishing a canopy of cottonwoods and sycamores on the floodplain with native grass understory and planting the banks with oak woodland species consisting of valley oaks, blue oaks, coast live oak, interior live oak, toyon, buckeye, coyote bush, coffeeberry and wild rose. The LPCCC will establish an interim cover of native grass for erosion control and weed resistance.

Pursuant to Title 14, California Code of Regulations, Section 699.5 (j)(1)(A), the Department has received the appropriate fee for a minor amendment.

If you have questions regarding this matter, please contact me at kbarker@dfg.ca.gov or phone number (916) 358-4353.

Sincerely,

Kelley Barker
Environment Scientist

Notification No. 1600-2009-0088-R2

AGREEMENT REGARDING PROPOSED STREAM ALTERATION

THIS AGREEMENT, entered into between the State of California, Department of Fish and Game, hereinafter called the Department, and the Solano County Water Agency of Elmira, State of California, hereafter called the Applicant, is as follows:

WHEREAS, pursuant to California Fish and Game Code, Section 1602, the Applicant, on May 4, 2009, notified the Department that he intends to substantially divert or obstruct the natural flow of, or substantially change the bed, channel, or bank of, or use material from the streambed of, the following water: Putah Creek, in the Counties of Yolo and Solano, State of California, Sections 21 and 22, Township 8N, Range 1W, USGS Map Winters MDB&M.

WHEREAS, the Department, represented by Kelley Barker, has determined that such operations may substantially adversely affect existing fish and wildlife resources including: fall-run Chinook salmon, northwestern pond turtle, warm water fish species, amphibians, and other aquatic and terrestrial plant and wildlife species.

THEREFORE, the Department hereby proposes measures to protect fish and wildlife during the Applicant's work. The Applicant hereby agrees to accept the following recommendations as part of his work:

Project Description: This project will remove a percolation dam and use processed waste concrete to help fill margins of the channel in the pool immediately below the percolation dam. The south bank abutment and first segment of the dam on the south side may optionally remain if the budget does not allow for complete removal. The dam will be removed completely or to a depth of 15 feet below summer water surface elevation. Access will occur from an existing ramp on the south bank off of Putah Creek Road that leads to a three-acre staging area formerly used for water treatment aeration ponds (Putah Creek Flats). The former pond sites will be cleared and excavated to create fill to restore 210 linear feet of floodplain on the south bank of sufficient width to access the percolation dam as needed for heavy equipment and to provide continuity of the south bank floodplain from the Winters Car Bridge to Putah Creek Flats. The staging area will be used to store imported fill for subsequent channel realignment projects throughout Winters Putah Creek Park. The derelict percolation dam foundation will be demolished, processed to remove exposed rebar and the waste concrete will be placed along the toe of the banks in the pool below the percolation dam and capped with a minimum of three feet of clean fill. Gabion baskets may be used at the option of the contractor to place the waste concrete in the channel and would also be capped with a minimum of three feet of clean fill. Subsequent phases of the project will fill in the existing pool below the percolation dam and create a design channel through the future constructed floodplains
The project area consists of 1200 linear feet of channel below the current location of the percolation dam and 100 feet above the percolation dam, inclusive of the dam. The area of the dam is 150 long and 30 feet wide (4500 square feet - 0.1 acre). The area of constructed floodplain along the south bank is 210 feet x approximately 20 feet depending on the volume of waste concrete incorporated into the base of the constructed floodplain - 4200 sq feet - 0.1 acre. The staging area on Putah Creek Flats including the access ramp is 3 acres. Total project area is 3.2 acres.

Stream Zone Defined: The stream zone is that portion of the stream channel that restricts lateral movement of water. The stream zone is delineated at the top of the bank or the outer edge of any riparian vegetation, whichever is more landward.

1. The notification, together with all supporting documents submitted with the notification,

including the Initial Study and Mitigated Negative Declaration for the Winters Putah Creek Nature Park/Floodplain Restoration and Recreational access Project, additional project description and impact information submitted to the Department by email on May 29, 2009, are hereby incorporated into this agreement to describe the location and features of the proposed project. The Applicant agrees that all work shall be done as described in the notification and supporting documents, incorporating all project modifications, wildlife resource protection features, mitigation measures, and provisions as described in this agreement. Where apparent conflicts exist between the notification and the provisions listed in this agreement, the Applicant shall comply with the provisions listed in this agreement. The Applicant further agrees to notify the Department of any modifications made to the project plans submitted to the Department. At the discretion of the Department, this agreement will be amended to accommodate modifications to the project plans submitted to the Department and/or new project activities. Please see the current fee schedule to determine the appropriate amendment fee.

2. Documents, plans, surveys, notifications, and requests pertaining to this project or required by this agreement may be sent via email to Kelley Barker at kbarker@dfg.ca.gov or delivered to the Department of Fish and Game at 1701 Nimbus Road, Suite A, Rancho Cordova, CA 95670. Refer to Notification Number 1600-2008-0088-R2 when submitting documents to the Department.

3. The time period for completing the work within the stream zone of Putah Creek shall be restricted to periods of low stream flow and dry weather and shall be confined to the period of April 15 to December 1. Construction activities shall be timed with awareness of precipitation forecasts and likely increases in stream flow. Construction activities within the stream zone shall cease until all reasonable erosion control measures, inside and outside of the stream zone, have been implemented prior to all storm events. No work will occur during wet weather. Revegetation, restoration and erosion control work is not confined to this time period.

4. The Applicant shall coordinate with the Yolo Wildlife Area to ensure that construction activities each year have ceased prior to when the downstream boards are pulled and attraction flows are released to further reduce any potential impacts to fall-run Chinook salmon that may be swimming upstream in late fall/early winter.

5. If work will occur during bird nesting season (March 1- September 15), the Applicant shall provide or hire a biologist to conduct pre-construction surveys for Swainson's hawks and other migratory birds no more than 14 days and no less than 7 days prior to the initiation of any construction activities on site. For migratory birds, the survey area shall include the footprint of all project impacts, including vegetation removal, staging, access and equipment/material storage and any suitable habitat adjacent to these areas. For Swainson's hawk, the survey area shall include all potential nesting sites located within ½ mile of the project site. If an active Swainson's hawk nest is found during surveys, the biologist shall contact the Department immediately to determine how to avoid the potential for the nests and/or birds to be disturbed by construction activities.

6. A biologist shall conduct a preconstruction survey within the project area for northwestern pond turtles prior to start of any construction activities on site. The biologist shall monitor the project area for these species throughout construction activities and shall relocate any turtles found on the site.

7. All equipment operators and other personnel that will be working at the project site shall attend environmental awareness training, presented by a biologist. The training shall include information about the protected species that may be present on site, including, but not limited to Swainson's hawk, northwestern pond turtle, and migratory birds. The training shall address the protection of each of these species, where they may occur on site, and what action to take if one is encountered.

8. Prior to commencement of work within the stream zone and upon completion of work activities, the Applicant shall photograph the project site. Labeled copies of photographs shall be emailed or mailed to the Department of Fish and Game within 30 days of completion of the project. Refer to Notification Number 1600-2008-0088-R2 when submitting photographs.

9. If the Applicant finds more time is needed to complete the authorized activity, the Applicant shall submit a written request for a work period time extension to the Department. The work period extension request shall provide the following information: 1) Describe the extent of work already completed; 2) Provide specific detail of the activities that remain to be completed within the stream zone; and 3) Detail the actual time required to complete each of the remaining activities within the stream zone. The work period extension request should consider the effects of increased stream conditions, rain delays, increased erosion control measures, limited access due to saturated soil conditions, and limited growth of erosion control grasses due to cool weather. Photographs of the work completed and the proposed work areas are helpful in assisting the Department in its evaluation. Time extensions are issued at the discretion of the Department. The Department will review the written request to work beyond the established work period. The Department will have ten calendar days to approve or deny the proposed work period extension. The Department reserves the right to require additional measures designed to protect natural resources.

10. The Applicant is responsible for obtaining all required permits and authorizations from local, state and federal agencies. The Applicant shall notify the Department where conflicts exist between the provisions of this agreement and those imposed by other regulatory agencies. Unless otherwise notified, the Applicant shall comply with the provision that offers the greatest protection to water quality, species of special concern and/or critical habitat.

11. A copy of this agreement shall be provided to the Contractor(s) who works within the stream zone of this project. A copy of this agreement and a copy of the original notification, including the project description, as submitted to the Department, must be available upon request at the work site. The Contractor(s) shall sign this agreement prior to working within the stream zone. The Contractor(s) or a designated crew supervisor(s) shall be on site the entire time a work crew is working near the stream zone. The supervisor(s) shall be completely familiar with the terms and conditions of this agreement and shall ensure compliance with all terms and conditions. The Department reserves the right to enter the project site at any time to ensure that there is compliance with the terms/conditions of this Agreement.

12. The Applicant shall notify the Department within two working days of beginning work within the stream zone of Putah Creek. In addition, the Applicant/Contractor shall notify the Department within two working days of the completion of work within the stream zone on this project. Notification shall be submitted to the Department as instructed in item number 2 above.

13. When work in a flowing stream is unavoidable, the entire stream flow shall be diverted around or through the work area during the excavation and/or construction operations. Stream flow

shall be diverted using gravity flow through temporary culverts/pipes or pumped around the work site with the use of hoses. When any dam or other artificial obstruction is being constructed, maintained, or placed in operation, sufficient water shall at all times be allowed to pass downstream to maintain aquatic life below the dam pursuant to Fish and Game Code section 5937. Any temporary dam or other artificial obstruction constructed shall only be built from clean materials such as sandbags, gravel bags, water dams, or clean/washed gravel which will cause little or no siltation. No other diversion method shall be used without prior authorization by the Department. If another diversion method is preferred, the Applicant must submit a plan detailing the desired diversion method. Authorization of any other diversion method shall be at the discretion of the Department.

14. It is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird except as otherwise provided by the Fish and Game Code. No trees that contain active nests of birds shall be disturbed until all eggs have hatched and young birds have fledged without prior consultation and approval of a Department representative.

15. Two hundred and eight native trees averaging six inches in diameter will be removed from the three-acre staging area (800 linear feet) for this project. Eighty percent of these are willows; ten percent are valley oaks and the remaining 10 percent are cottonwoods, ash, boxelder and sycamore. The Lower Putah Creek Coordinating Committee (LPCCC) will re-vegetate all disturbed areas in future phases when final grade is achieved. Revegetation will focus on maximizing shade over the water, re-establishing a canopy of cottonwoods and sycamores on the floodplain with native grass understory and planting the banks with oak woodland species consisting of valley oaks, blue oaks, coast live oak, interior live oak, toyon, buckeye, coyote bush, coffeeberry and wild rose. The LPCCC will establish an interim cover of native grass for erosion control and weed resistance.

16. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations. Except for the vegetation specifically identified for trimming and/or removal in the notification, no native trees with a trunk diameter at breast height (DBH) in excess of four (4) inches shall be removed or damaged without prior consultation and approval of a Department representative. Using hand tools (clippers, chain saw, etc.), trees may be trimmed to the extent necessary to gain access to the work sites. All cleared material/vegetation shall be removed out of the riparian/stream zone.

17. Precautions to minimize turbidity/siltation shall be taken into account during project planning and implementation. This may require the placement of silt fencing, coir logs, coir rolls, straw bale dikes, or other siltation barriers so that silt and/or other deleterious materials are not allowed to pass to downstream reaches. If silt fencing is used, the bottom edge of the material shall be buried in the ground to prevent snakes or other wildlife from crawling underneath the material. Passage of sediment beyond the sediment barrier(s) is prohibited. If any sediment barrier fails to retain sediment, corrective measures shall be taken immediately. The sediment barrier(s) shall be maintained in good operating condition throughout the construction period and the following rainy season. Maintenance includes, but is not limited to, removal of accumulated silt and/or replacement of damaged silt fencing, coir logs, coir rolls, and/or straw bale dikes. **Products with plastic monofilament or jute netting (such as found in straw wattles/fiber rolls and some erosion control blankets), shall not be allowed.** Wildlife-friendly erosion control and sediment control products that will not entangle snakes and other wildlife shall be used instead. The Applicant is responsible for the removal of non-biodegradable silt barriers (such as tightly woven plastic silt fencing) after the disturbed

areas have been stabilized with erosion control vegetation (usually after the first growing season). Upon Department determination that turbidity/siltation levels resulting from project related activities constitute a threat to aquatic life, activities associated with the turbidity/siltation shall be halted until effective Department approved control devices are installed or abatement procedures are initiated.

18. All debris, bark, slash, sawdust, rubbish, silt, raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous to aquatic life, resulting from project related activities, shall be prevented from contaminating the soil and/or entering the waters of the state. Any of these materials, placed within or where they may enter a stream or lake by the Applicant or any party working under contract or with the permission of the Applicant, shall be removed immediately. The Department shall be notified immediately by the Applicant of any spills and shall be consulted regarding clean-up procedures.

19. During construction, the contractor shall not dump any litter or construction debris within the stream zone. All construction debris and associated materials shall be removed from the work site upon completion of this project.

20. All exposed/disturbed areas and access points within the stream zone left barren of vegetation as a result of the construction activities shall be restored using locally native grass seeds, locally native grass plugs and/or a mix of quick growing sterile non-native grass with locally native grass seeds. Seeded areas shall be covered with broadcast straw and/or other wildlife-friendly material (monofilament or jute netting erosion blankets are not authorized)

21. This agreement is not valid and work may not begin until the agreement is signed by a representative of the Department of Fish & Game. **Stream alteration work authorized by this agreement expires five years from the date it was signed by the Department**. This agreement shall remain in effect for that time necessary to satisfy all required mitigation and monitoring measures.

22. Requests for Extensions (agreement renewal), Minor Amendments, and Major Amendments must be submitted in writing prior to expiration of the agreement or commencement of work on modified project plans. Extensions and Amendments are issued at the discretion of the Department. Please see the current fee schedule to determine the appropriate fee.

23. The Department may take enforcement action and reserves the right to suspend and/or revoke this agreement if the Department determines that the circumstances warrant. The circumstances that could require these Department actions include, but are not limited to, the following: A) Failure to comply with the terms/conditions of this agreement. B) The information provided by the Applicant in support of the agreement/notification is determined by the Department to be incomplete, or inaccurate. C) When new information becomes available to the Department representative(s) that was not known when preparing the original terms/conditions of this agreement. D) The project as described in the notification, agreement, or amendment has changed, or conditions affecting fish and wildlife resources change.

24. If, in the opinion of the Department, conditions arise or change in such a manner as to be considered deleterious to aquatic life, operations shall cease until corrective measures are taken.

25. It is understood that the Department enters into this agreement for purposes of establishing protective features for fish and wildlife, in the event that a project is implemented. The decision to proceed with the project is the sole responsibility of the Applicant, and is not required by this agreement. It is agreed that all liability and/or incurred costs related to or arising out of the Applicant's project and the fish and wildlife protective conditions of this agreement, remain the sole responsibility of the Applicant. The Applicant agrees to hold harmless and defend the State of California and the Department of Fish and Game against any related claim made by any party or parties for personal injury or other damage.

SIGNATURE PAGE

The Applicant, as designated by the signature on this agreement, shall be responsible for the execution of all elements of this agreement. A copy of this agreement must be provided to contractor and subcontractors and must be in their possession at the work site.

Failure to comply with the provisions of this agreement and with other pertinent Code Sections, including but not limited to Fish and Game Code Sections 5650, 5652 and 5948, may result in prosecution.

Nothing in this agreement authorizes the Applicant to trespass on any land or property, nor does it relieve the Applicant of responsibility for compliance with applicable federal, state, or local laws or ordinances.

This agreement is not valid and work may not begin until the agreement is signed by a representative of the Department of Fish & Game.

Applicant: _____ Date _____

Title: _____

Organization: _____

Contractor: _____ Date _____

Title: _____

Company: _____

Department
Representative: _____ Date _____
Sandra Morey, Regional Manager