

REQUEST FOR PROPOSALS (RFP)
FOR THE
SILICON VALLEY CLEAN WATER
GRAVITY PIPELINE
PROGRESSIVE DESIGN BUILD PROJECT

CIP #6008

JUNE 8, 2017

PROPOSALS DUE – WEDNESDAY, AUGUST 2, 2017
AT 2:00 PM

at

Silicon Valley Clean Water
1400 Radio Road
Redwood City, California 94065
(650) 591-7121

Attention: Ms. Teresa Herrera, Owner's Representative



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1 INTRODUCTION

1.1 General Introduction

The Gravity Pipeline, a 3.3 mile, 15 foot outside diameter pipeline, extends from Inner Bair Island south of San Carlos Airport to Silicon Valley Clean Water's (SVCW's) Wastewater Treatment Plant in Redwood City, California. The Gravity Pipeline is part of SVCW's larger wastewater treatment facilities, and treatment of the wastewater occurs as it travels through and is equalized in the Gravity Pipeline. The Gravity Pipeline is one part of the SVCW Regional Environmental Sewer Conveyance Upgrade (RESCU), formally known as the Conveyance System Improvement Project.

SVCW will use the progressive design-build contracting method to deliver its Gravity Pipeline project (Project), and is employing a two-step procurement process for selecting the entity that will serve as the design-builder for the Project (Design-Builder).

This Request for Proposals (RFP) represents the second step of the procurement process, and establishes the process for soliciting and evaluating Proposals from those entities shortlisted as part of the Statement of Qualifications (SOQ) process. This RFP is only being sent to Proposers that have been shortlisted by SVCW following the first step of reviewing SOQs. The purpose of the Proposal is to demonstrate the capacity and proficiency of the Proposer to perform the work described in this RFP, in conformance with the requirements of this RFP. The Proposal shall demonstrate a specific project approach and scope of services that will meet the RFP requirements.

Each Proposer must be thoroughly familiar with the scope of work and performance requirements discussed in this RFP. SVCW may disqualify any Proposer that fails to demonstrate such familiarity in its Proposal.

The submitted Proposal must conform to the requirements of this RFP and must be signed by the appropriately authorized official with authority to commit the Proposer to perform the Gravity Pipeline work. Furthermore, the Proposal must be submitted in conformance to the time and manner described herein.

The award of an agreement will be subject to the terms and conditions of the RFP. This RFP is not a tender or an offer. The Successful Proposer will be expected to execute the Agreement included in this RFP, or as modified by Addendum to this RFP.

SVCW reserves the right to reject any and all Proposals. SVCW reserves the right to seek additional pertinent information regarding a Proposer's qualifications at any time during the selection and award process. No requirement in this RFP will prejudice the right of SVCW to seek additional pertinent information regarding Proposers' qualifications.

1.2 Background on SVCW's Conveyance Program

SVCW is undertaking improvements to the reliability of its wastewater conveyance system serving the cities of Belmont, Redwood City, and San Carlos, and the West Bay Sanitary District. SVCW's conveyance

system is failing and needs to be replaced. An exhaustive conveyance system alternatives analysis identified over 140 alternatives involving various alignments, pumping arrangements and pipeline installation methods. Based on a feasibility assessment, these 140 alternatives were reduced to 15 feasible alternatives. Figure 1 provides an overview of the selected pipeline alignment. Figure 2 provides a hydraulic profile of the Gravity Pipeline and upstream/downstream interfaces. Refer to the Planning Level Technical Memorandum TM1 for a general description of the overall conveyance system improvement program.

A “success factor” based alternative analysis was developed and executed by the SVCW’s Conveyance System Planning Group to evaluate the top 15 alternatives. This extensive evaluation process resulted in the recommended alternative. The recommended alternative is known as Alternative 4BE and includes use of a tunnel boring machine (TBM) to install a gravity pipeline, three low-head pump stations, a receiving lift station, odor control, headworks, and influent connector pipeline.

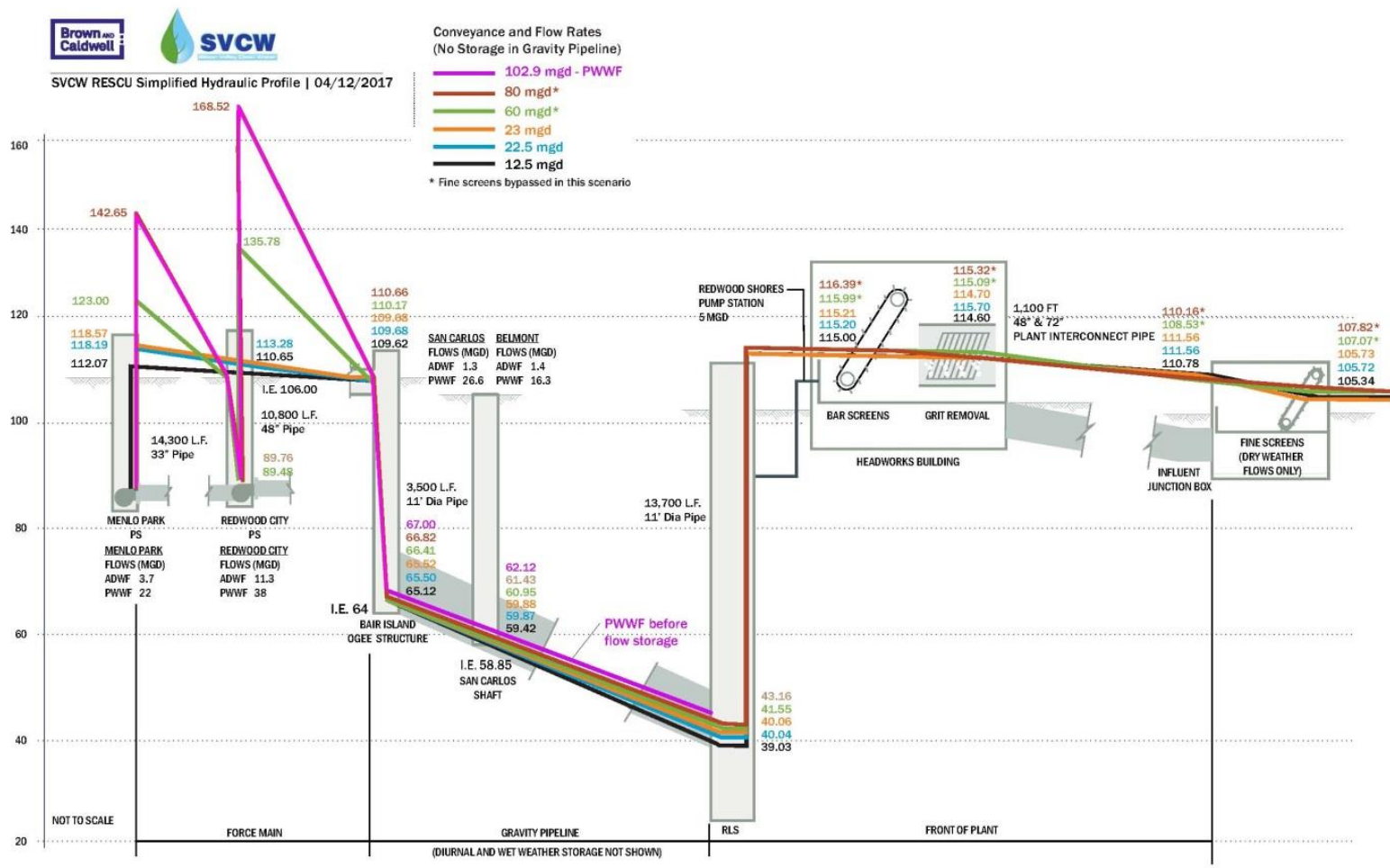
1.3 Integration with Other SVCW Projects

SVCW is proceeding with two simultaneous Progressive Design Build projects: Gravity Pipeline and Front of Plant (FoP). The main connection between the two projects is the shaft(s) that will serve as the receiving shaft for removal of the TBM and for construction of the Receiving Lift Station (RLS). The shaft structures are currently envisioned to be built by the Gravity Pipeline Contractor and the receiving lift station will be built by the FoP Contractor. The RLS shaft(s) will need to be configured, sized and scheduled to accommodate both the RLS and the TBM retrieval.

SVCW also plans to issue a separate Design-Bid-Build (DBB) contract for initial lime stabilization and grading to prepare the FoP site for construction. This work is scheduled to be completed in 2017.



Figure 2: Gravity Pipeline Hydraulic Profile



1.4 RFP Organization

This RFP consists of nine (9) Sections and six (6) Attachments:

- Section 1: Introduction
- Section 2: SVCW's Objectives
- Section 3: Gravity Pipeline Overview
- Section 4: Progressive Design-Build Services
- Section 5: Risk Allocation and Key Contract Provisions
- Section 6: Procurement Process
- Section 7: Proposal Submittal Requirements
- Section 8: Proposal Evaluation
- Section 9: Limitations
- Attachment A: Base Design Criteria
- Attachment B: Draft Design-Build Contract for Gravity Pipeline Project
- Attachment C: Draft Responsibility Matrix
- Attachment D: Proposal Forms
 - D.1 Affidavit of Authenticity
 - D.2 Insurance Company Letter of Intent
 - D.3 Surety Letter of Intent
 - D.4 Public Works Contractor Registration Form
 - D.5 Non-Collusion Declaration
 - D.6 Iran Contracting Prohibition Certification
 - D.7 Organizational Conflict of Interest Certification
 - D.8 Worker's Compensation Certification
 - D.9 California Professional Engineer Licensing
- Attachment E: Scope of Work Outline
- Attachment F: Project Financial Forms and Instructions

Background Documents. SVCW has made a number of additional materials available for the Design-Builder's information in the Background Documents. These Background Documents may be considered, in conjunction with Design-Builder's own investigation of the Project site, and its innovative approach ideas in developing its proposal and project design. These background materials are available through SVCW's website below:

<http://www.svcw.org/projects/SitePages/GravityPipeline.aspx>

These background materials include the following:

- Final Environmental Impact Report, Silicon Valley Clean Water Wastewater Conveyance System and Treatment Plant Reliability Improvement Project, April 2017
- Planning Level Technical Memoranda for Gravity Pipeline Project. Outline provided in Table 1.
- Planning level information pertaining to the FoP Project

- Additional Gravity Pipeline Documents
 - CDFW Streambed Alteration Agreement for Bair Island
 - Gravity Pipeline Corrosion and Odor Model Development Task Order, April 2017
 - CTL Group Concrete Study Task Order, May 2017
 - Temporary PGE 12kv Service at Airport Access Shaft, March 2017
 - Gravity Pipeline Project Underground Classification from DIR, May 31, 2017
 - Labor Rate Analysis Spreadsheets
 - Site Stabilization, Grading and Drainage Project Plans and Specifications (FoP area)
 - Record Drawings for 48-inch Unit 2 Bair Island 2-4-16
 - Record Drawings for 48-inch Unit 4B Bair Island 2-2-17

Table 1: Outline of Gravity Pipeline Planning Level Technical Memoranda

TM #	Title	Subject
	Compilation Summary	Summary of Planning Level Technical Memoranda
1	Background Information	Summary of historical information
2	Tunnel Alignment & Shaft Siting	Summary of alignment definition and location of shafts
3	Tunnel Construction	Review of evaluation of tunneling methods and identification of proposed method. Includes evaluation of tunnel construction materials (including Appendix referencing Alternative Materials Evaluation, considered multi-strategy)
4	Shaft Construction	Review of evaluation of construction options for each of the shafts identified in TM #2
5	Shaft Connections	Overview draft of primary features of connections of other utilities to the Conveyance System at the shafts, where applicable.
6	Odor Generation	Summary of assumptions and analytical modeling conducted to produce concept-level estimates of odor concentrations and air volumes that could be generated in the tunnel.
7	Baseline Risk	Introduction to and summary of risk process used during project development stage, resulting in a risk register that is available for PDB to use in developing DB risk program.
8	Criteria & Standards	Tabular list of criteria identified in TM #s 2-6.
Hydr	Hydraulics TM (Gravity Pipeline)	Supplemental hydraulics evaluation conducted by the Tunnel Design team to explore operational characteristics of using the Gravity Pipeline as an equalization facility, both for wet and dry weather conditions. This is focused on the GP only, and is intended to be a supplement to the hydraulic model prepared for the CIP Program.
LCC	Life Cycle Costs – Gravity Pipeline	Cost memo issued on 31 August 2016 including detailed cost estimate
Geo	Geotechnical Data Report	Provides geotechnical data gathered as of December 2015

The contents of the RFP Sections take priority over any conflicting statements in the RFP Attachments.

1.5 RFP Definition and Acronyms

The capitalized terms in this RFP have the meanings as first used in the text of this RFP and as defined below.

1.5.1 Definitions

Best Value – A value determined by evaluation of objective criteria that relate to price, features, functions, life-cycle costs, experience, and past performance. A best value determination will involve a tradeoff between price and other factors as specified in this RFP.

Confidential Meeting – Meeting between the short-listed Design-Builder and SVCW in a confidential setting to enable the Design-Builder to present its own specific Gravity Pipeline approaches/creative solutions and receive feedback from SVCW.

Contractor – Design-Build team member responsible for the construction of the work under Contract.

Design-Builder – The entity that will enter into the PDB Contract with SVCW and that will be the single point of accountability to SVCW for delivering the services for the Project.

Design Build Team – The Design-Builder itself and the individuals and other entities identified by the Design-Builder as members of its team. Includes the Design-Builder (party entering into the contract with SVCW), Contractor, Designer-of-Record, and Design-Builder subconsultants and subcontractors.

Designer-of-Record – Engineer-of-record and Design-Build team member that is responsible for the overall design of the Project.

Indicative Cost Estimate – Design-Builder estimate of Project cost provided as part of the Proposal based on the project as defined in the RFP for evaluation of project understanding and estimating approach as well as for budget planning purposes and as a starting point for Stage 1 cost reduction efforts (opened, reviewed and scored after all other scoring completed).

Key Personnel – The individuals, employed by the Design-Builder or other firm included on the Project Team, who would fill certain key roles in the delivery of the Project and related services by the Design-Builder.

Owner – Silicon Valley Clean Water

Owner Contact- Owner's representative as set forth in section 6.2 "Agency Contacts and Communications Protocols" of this RFP.

Proposal – Proposal submitted by a Design-Builder in response to this RFP.

Phase – Refers to the Design Builder's proposed phasing of design and construction activities to optimize timely completion of the project (e.g., design and construct shafts in Phase 1 prior to completing design and excavation of the tunnel in a subsequent phase).

Program - Regional Environmental Sewer Conveyance Upgrade (RESCU) formally known as the Conveyance System Improvement Program (referred to as the project in the EIR)

Project – Gravity Pipeline Project

Proposer – Respondent that has been short-listed and subsequently submits a proposal.

Respondent – An entity responding to the previously issued RFQ by submitting an SOQ.

Step 1 – RFQ/SOQ process and creation of short-list.

Step 2 – RFP/Proposal process and selection of Design-Builder.

Stage 1 – Preconstruction stage of PDB contract to bring design from 5%-10% to approximately 60% and prepare a Stage 2 contract price.

Stage 2 – design completion, construction and start-up stage of PDB contract

WATS – Wastewater Aerobic/Anaerobic Transformations in Sewers. The WATS model simulates biological, chemical and physical processes in sewers. It simulates what happens in the wastewater, biofilms, sediments, sewer air, and moist sewer surfaces. It predicts the amount and quality of sewer air vented to the urban atmosphere, calculates concrete corrosion, and simulates injection of chemicals to manage H₂S and odor.

1.5.2 Acronyms

BAFO	Best and Final Offer
CSC	Collaborative Strategies Consulting
DBB	Design-Bid-Build
DB	Design-Build or Design-Builder
EIR	Environmental Impact Report
EMF	Experience Modification Factor
EMR	Experience Modification Rate
EPB	Earth Pressure Balance
FoP	Front of Plant
GP	Gravity Pipeline
GMP	Guaranteed Maximum Price
GTC	Geotechnical Consultants
OA	Owner's Advisor
OPCC	Opinion of Probable Construction Cost
OSHA	Occupational Safety and Health Administration
PDB	Progressive Design-Build or Progressive Design-Builder
RESCU	Regional Environmental Sewer Conveyance Upgrade
RFI	Request for Information
RFP	Request for Proposals

RFQ	Request for Qualifications
RLS	Receiving Lift Station
SVCW	Silicon Valley Clean Water
SOQ	Statement of Qualifications
TBM	Tunnel Boring Machine
WATS	Wastewater Aerobic/Anaerobic Transformations in Sewers
WWTP	Wastewater Treatment Plant

1.6 Base Design Criteria

The "Base Design Criteria," included in Attachment A, were developed by the Owner to provide an outline of the Project requirements and scope. The Base Design Criteria provide a basis for the Design-Builder's Contract Price, Project Baseline Schedule and design work. The Design-Builder is expected to expand on, elaborate, and enhance the Base Design Criteria in collaboration with Owner during Stage 1 to create a complete set of Design Criteria (Basis of Design Report) to guide the remainder of the Work. The Design-Builder may propose changes to the Base Design Criteria. Any such changes must be acceptable to the Owner.

The Base Design Criteria are being provided to: (a) provide sufficient information to convey the intent, goals, criteria, and objectives of the Project; and (b) permit the Proposer to: (i) assess the scope of work; and (ii) submit a proposal. Proposals shall be based upon compliance with the requirements identified in the Base Design Criteria. Notwithstanding the content of the design parameters and criteria in the Base Design Criteria, Proposers have the discretion, using their best technical judgment, to submit for SVCW consideration innovative approaches that provide the optimal solution to meet the project requirements.

Proposers shall promptly report in writing to SVCW any conflict, ambiguity, or discrepancy that the Proposer discovers in the Base Design Criteria. Neither SVCW nor any consultant working by or through SVCW shall have any responsibility for errors or misrepresentations resulting from a Proposer's use of an incomplete set of the design criteria, or failure to comply with the Base Design Criteria as stated herein.

1.7 RFP Subject to Revision

This RFP is subject to revision after the date of issuance via written addenda (Addenda). Addenda issued by SVCW will be emailed to each Proposer. Each Proposer is solely responsible for obtaining all Addenda prior to submitting its Proposal and shall confirm in its Proposal submittal, that all addenda have been received. SVCW assumes no responsibility or liability whatsoever for the distribution of Addenda to Proposers.

2 SVCW'S OBJECTIVES

SVCW's objective is to receive quality Proposal submissions from highly qualified and capable Design-Builders for the successful design and construction of this Gravity Pipeline Project. SVCW will give heavy consideration to the firm or team that demonstrates its ability to: (1) collaborate with SVCW

management, engineering, operations and maintenance and consultants, and (2) achieve the below listed Program and Project objectives.

2.1 Program Objectives

The Gravity Pipeline Project is a central component of SVCW's overall Conveyance System Improvement Program (Program), which consists of major upgrades, replacements, and new facilities needed to achieve a highly reliable system.

The Owner defines "success" as collaboratively implementing an appropriate balance of the following Program Success Factors:

- **Cost:** Provide a complete functional conveyance system that meets the goals of the Program at the lowest practical capital and lifecycle cost.
- **Operations:** Produce projects that are easy, efficient, and effective to operate.
- **Maintenance:** Produce projects that minimize required maintenance.
- **Safety:** Implement projects that are safe to construct, operate, and maintain.
- **Schedule:** Place new wastewater conveyance system projects into operation with best practical safe speed, while maintaining the present level of service with existing facilities.
- **Stakeholder Impacts:** Solicit, evaluate, and respond to stakeholder's concerns, and implement a Program that best meets the combined needs of stakeholders while reaching the Program's goals.

2.2 Gravity Pipeline Objectives

SVCW's objectives for delivery of the Gravity Pipeline are as follows:

- **Quality:** Provide a gravity pipeline that will be sustainable over 100 years and will reliably receive, convey and equalize wastewater flows ranging from 2 mgd to 103 mgd in full compliance with environmental requirements.
- **Cost:** Provide a complete functional gravity pipeline and inlet facilities that meet the goals of the Project at the lowest practical capital and lifecycle cost. Provide early and ongoing total Gravity Pipeline cost predictability.
- **Schedule:** Achieve the best practical safe speed to complete the tunnel and inlet structures so that the existing failing pipeline and pump stations can be taken out of operation as early as reasonably possible.
- **Risk:** Generally assign to the Design-Builder the risks that the Design-Builder can reasonably anticipate and control. Assign to SVCW the risks that the Design-Builder cannot reasonably anticipate and control.
- **Safety:** Implement an effective safety program incorporating better than industry practices.
- **Accountability:** Design-Builder to provide for a single point of accountability for performance of all services under Stage 1 and Stage 2. SVCW to provide a single point of accountability for all direction to the Design-Builder.

- **Collaboration:** Implement an integrated design process that collaboratively includes SVCW management, engineering, operations and maintenance as well as the Design-Build contractor and engineer to develop a design that optimally achieves SVCW success factors and Gravity Pipeline requirements.
- **Innovation:** Apply proven technology from other locations to uniquely achieve Gravity Pipeline goals.

2.3 Progressive Design-Build (PDB) Delivery Objectives

SVCW has identified the following objectives for the PDB delivery process:

- PDB delivery should achieve faster completion of the overall Project relative to conventional design-bid-build (DBB) delivery
- PDB delivery should promote a cooperative and collaborative relationship between SVCW and the PDB team.
- Development of the Gravity Pipeline should incorporate ongoing cost modeling and take a “design-to-below-budget” approach with the ceiling for Progressive Design-Builder derived from the overall CIP budget for the Project.
- The PDB delivery process should be structured to provide the flexibility for phased design and construction to achieve Project objectives.
- Planning for construction, startup and commissioning should recognize that SVCW staff does not have experience operating and maintaining all of the types of facilities that will be completed. Opportunities for early and ongoing staff involvement and training that do not significantly adversely affect costs should be identified and implemented.

3 GRAVITY PIPELINE OVERVIEW

3.1 Site and Location

As shown in Figure 1, the Proposed Gravity Pipeline, shown in green in the figure, connects to the recently constructed 48-inch force main project on Inner Bair Island and extends downstream to connect at the proposed Receiving Lift Station (RLS) at the SVCW wastewater treatment plant (WWTP). The SVCW WWTP is located at 1400 Radio Road, at the east end of Redwood Shores, in Redwood City, California. The currently described Gravity Pipeline consists of approximately 17,600 feet of 11-foot diameter wastewater gravity pipeline inside a 15-foot outside diameter tunnel with four shafts. The tunnel is currently described with a slope of 0.0015 feet/foot and with its invert depth ranging between 35 and 65 feet below ground surface in primarily firm to stiff clay soils.

3.2 Gravity Pipeline Components

The Gravity Pipeline includes a number of components for consideration by the Proposer. These include, but are not limited to, the following:

1. Tunnel Alignment and Shaft Siting
2. Shaft Construction
3. Tunnel Construction
4. Gravity Pipeline Air Movement, Odor and Corrosion Control Shaft Connections
5. Coordination with adjoining projects and facilities

3.3 Interconnection of Gravity Pipeline and WWTP FoP

The Gravity Pipeline will interface directly with the FoP Project at the RLS. As currently planned the Gravity Pipeline Design-Builder will construct the tunnel receiving shaft(s) at the FoP area, which will then be completed as the RLS by the FoP Project Design-Builder. Additionally, the FoP odor control system will be designed to collect and treat foul air from the Gravity Pipeline, RLS, and FoP Projects. Close coordination between the FoP and GP Project teams will be critical throughout design, construction, and startup to ensure success of both projects. More specifically, the following points of interface are anticipated:

- **Configuration and dimensions for the shaft(s) at the Wastewater Treatment Plant (WWTP).**
These shaft(s) will need to be configured and sized to accommodate the removal of the tunnel contractor TBM (it is anticipated that roughly 25' of shaft size is needed after the receiving bulkhead resulting in a shaft of approximately 32' in inside diameter). The shaft(s) will also need to be sized and configured to accommodate the receiving lift station including any required flow splitting, flow conditioning and pumps. Configuration information would include such items as:
 - One or two shafts
 - Round, figure 8 or egg shape shaft
 - Diameter of each shaft
 - Depth of each shaft
 - Separation of shafts
 - Connections between shafts (location, shape and size)

Final decisions regarding the type and configuration of the RLS will be needed to establish the configuration and size of the shafts. Figure 3 presents an example configuration.

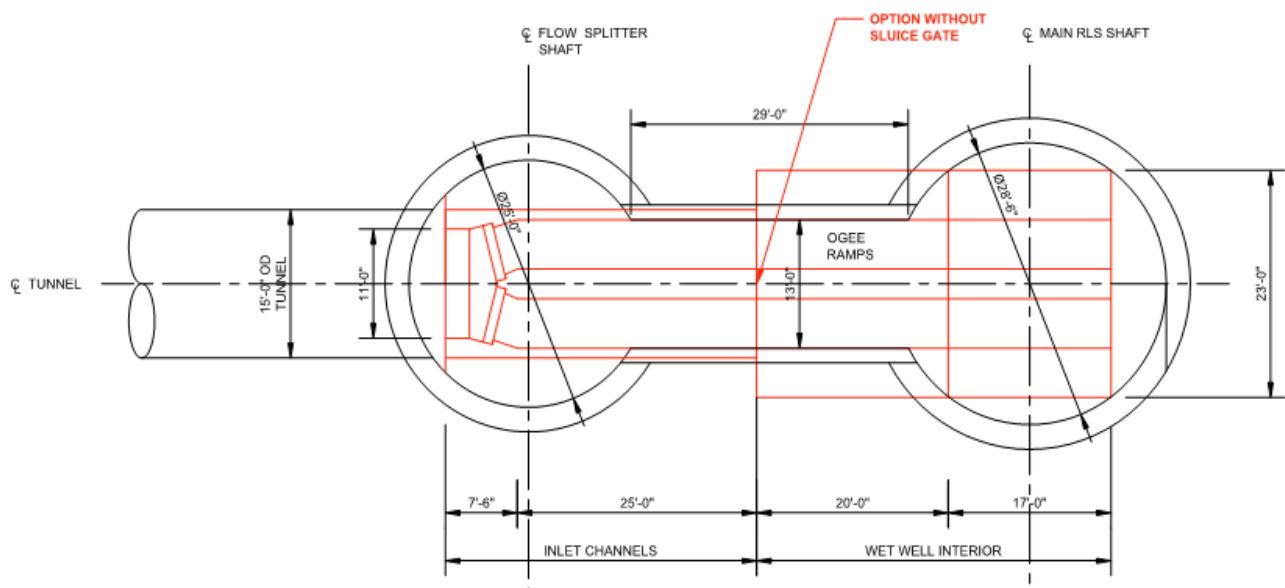


Figure 3: Example Shaft Configuration - 2 Shafts

- Defining the shaft design/construction split between gravity pipeline and RLS.** Coordination among the Gravity Pipeline and FoP Design-Builders will be required to determine the design and construction responsibility for the RLS. The Gravity Pipeline Design-Builder will require detailed information from the FoP Design-Builder regarding loading and connections.
- Air Movement through the Gravity Pipeline.** The FoP Design-Builder and the Gravity Pipeline Design Builder, and SVCW shall coordinate extensively to define equalization flow scenarios and corresponding air movement, odors and corrosion. The FoP Design Builder will provide its model of wastewater hydraulics given that the operation of the RLS will define wastewater flow scenarios in the Gravity Pipeline. For the purposes of controlling sulfides in the Gravity Pipeline Design Builder, the Gravity Pipeline Design Builder shall model air flow, odor, and corrosion in the Gravity Pipeline based on the flow equalization scenarios defined by the FoP Design Builder. Parameters affecting air movement will be exchanged and agreed upon and both the FoP Design Builder and Gravity Pipeline Design Builder shall be independently responsible for their own air flow estimates.
- Configuration and Construction timing to allow early start of RLS and removal of TBM.** The shaft construction needs to be completed prior to the start of the RLS Construction and the RLS completion is on a critical path to startup of the Gravity Pipeline. A window for removal of the TBM needs to be provided in the RLS construction.
- Startup.** Startup will require coordination of the Gravity Pipeline and RLS. The Gravity Pipeline scope will include all connections and tie-overs upstream. The FoP scope will include all connections to the WWTP.

Timing for the four main points of interface:

- **Configuration and Sizing.** Configuration and sizing of shafts is required as soon as possible following selection of the Design-Builders (within the first two to three months). These decisions are the critical path to starting shaft construction which, in turn, is on the critical path to having the Gravity Pipeline and RLS in operation.
- **Air, Odor, Corrosion Control.** Modeling of wastewater flow, air flow, odors and corrosion is required as soon as possible following selection of the Design-Builders as these decisions are the critical path to evaluating pipeline interior alternatives.
- **Split of shaft design/construction.** Coordination among design-builders regarding the shaft design and construction between projects is required during Stage 1.
- **Construction timing.** The RLS shaft must be completed prior to start of RLS construction. A window must be provided for TBM removal during RLS construction.
- **Startup.** Both the Gravity Pipeline and FoP projects need to be complete for successful startup of the two projects.

Provisions will be made for the circumstance in which a Design-Builder of the Gravity Pipeline or FoP project encounters delays that affect the other project. A back-up plan involving not having the RLS shaft constructed for TBM removal has been considered as a last resort. With this less than desirable back up plan, the TBM would be removed from the TBM launch shaft, the TBM shield left in place just short of the RLS and the FoP DB would be responsible for the RLS shaft construction. Other back-up plans will need to be developed upon start of Stage 1 for both projects.

3.3.1 Flow Description

The SVCW conveyance system currently consists of four pumping stations, one for each member agency, that contribute to a single force main that leads to the wastewater treatment plant. A portion of this force main in the Redwood Shores - San Carlos Airport area is being replaced with a deep gravity sewer pipeline that will convey flows to the plant. New facilities at the Front of the WWTP (FoP) will include a new pumping station, called the Receiving Lift Station, to lift flows from the gravity sewer and deliver to a new Headworks facility, which will subsequently flow to the existing primary sedimentation tanks via a new interconnection pipe.

Future flow rates through the gravity pipeline to the new RLS will be different than existing flow rates into the WWTP for various reasons including:

- In recent years drought has reduced water use and infiltration into sewage collection systems. Droughts will come and go and flows will change.
- The collection system feeding into SVCW interceptors is aging and repairs are being made. The net result will change system flows.
- Development within the service area is anticipated to involve primarily infill and intensification with some but not large increases in wastewater flows.
- Existing pumping stations will be renovated and the gravity pipeline completed to remove hydraulic bottlenecks that currently limit flows within the conveyance system. Peak flows may increase as the system can more readily accept sewage from the collection systems (less backing up into the collection system).

- The gravity pipeline will be used to equalize diurnal flow rates to provide a more consistent flow to the treatment processes, and it will also be used to store/equalize wet weather flows.
- Equalizing flows in the gravity pipeline (flushing required to remove sediment) as well as pump station cleaning and possible plant shutdowns for repairs will involve higher flow rates that will temporarily increase grit and sediment loading rates into the WWTP.

Flow data and hydraulic modeling efforts performed to date for preliminary sizing of pumping systems at the RLS indicate that the current conveyance system minimum hourly flow rate is 2.4 mgd and the average dry weather flow is approximately 11.8 mgd. In 2040, the minimum flows are likely to be similar, but the average dry weather flow is projected to be 17.9 mgd, peak dry weather flow would be 33.9 mgd, and peak wet weather flow through the Headworks would be approximately 80 mgd (based on equalization of the 102.9 mgd entering the gravity pipeline). SVCW desires to be capable of using the tunnel to equalize flow into the plant to a 60 mgd rate with the capability of moving 80 mgd through the plant if necessary.

3.4 Availability and Use of Background Information

Certain Gravity Pipeline and FoP Project background documents are being made available to Respondents through SVCW's website. To the extent that any Background Documents include design solutions or related information, such information does not necessarily represent the optimal or specific features that will be included in the Gravity Pipeline. Respondents are encouraged to be creative in their design process. SVCW is providing these background documents for information only. SVCW provides Base Design Criteria for the Project as part of this RFP.

The background documents were developed to document conceptual designs when the individual components of the Program were anticipated to progress as separate design-bid-build projects. It is intended that Respondents review the background documents, but not be limited by concepts or designs shown in the documents. By changing project delivery to PDB, SVCW is interested and open to considering ideas that would better achieve SVCW success factors and objectives.

3.5 Conveyance Project Funding

SVCW is committed to funding the entire Conveyance System Improvement Program including the Gravity Pipeline, and has the capacity to issue municipal bonds for the Project. SVCW is also exploring other, less expensive funding mechanisms including:

- Clean Water State Revolving Fund (SRF), administered through the State Water Resources Control Board (SWRCB)
- Water Infrastructure Finance and Innovation Act (WIFIA), administered through US EPA

SVCW prefers SRF over WIFIA over the bond funds, due to lower interest rates. The SRF and WIFIA funds include various State and Federal requirements with which the selected Design-Builder will be required to comply.

3.6 Gravity Pipeline Budget

In keeping with Project objectives, development of the Gravity Pipeline should incorporate ongoing cost modeling and take a "design-to-below-budget" approach with the ceiling for the Progressive Design-

Builder derived from the overall CIP budget for the Project. The CIP amount budgeted for the Gravity Pipeline PDB work including design, construction and contingency is \$170 million. The current construction cost estimate for the Gravity Pipeline as described in the EIR (not including project management, design, construction management or contingency) is \$163 million (see detailed estimate in planning level technical memoranda). Reducing the cost to provide complete functional gravity pipeline and inlet facilities that meet the goals of the Project at the lowest practical capital and lifecycle cost will be critical to completing the project below the amount budgeted.

3.7 Schedule

SVCW desires to collaboratively work with the Design-Builder to achieve the best practical safe speed to complete the tunnel and inlet structures so that the existing failing pipeline and pump stations can be taken out of operation as early as reasonably possible. Currently the Gravity Pipeline schedule includes completion of the Gravity Pipeline at the end of 2021. SVCW expects that working collaboratively with the Design-Builder the Gravity Pipeline can be completed significantly earlier. Figure 4 provides an overview of SVCW's current schedule for the Gravity Pipeline and FoP projects.

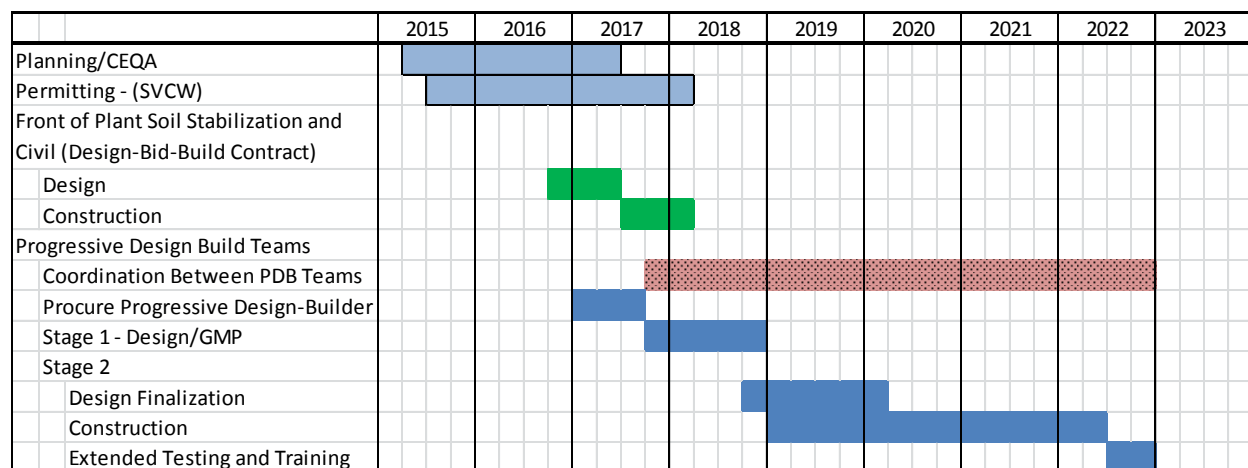


Figure 4: Current Conceptual Gravity Pipeline and Front of Plant Schedule

4 PROGRESSIVE DESIGN-BUILD SERVICES

4.1 General

The PDB delivery process (after selection of the Design-Builder) will occur in two stages:

- **Stage 1: Preconstruction Services**
- **Stage 2: Final Design and Construction**

The Gravity Pipeline will use a single contract for Stages 1 and 2, which will be amended to incorporate the Stage 2 scope of work and negotiated price. Each Stage is described below.

4.2 Stage 1 Services

Stage 1 consists of preconstruction services during which the Design-Builder will work collaboratively with SVCW to validate existing design concepts, propose alternatives, gather additional information, evaluate construction phasing alternatives, and design the Gravity Pipeline to approximately 60% complete. At the end of Stage 1, the Design-Builder will develop a price proposal for negotiation with SVCW. SVCW's Design-Build contract will allow the Design-Builder to phase design and construction with more than one Stage 2 contract amendment, if necessary and if Design-Builder's phasing proposal is accepted by SVCW.

Early in Stage 1 the following areas will need to be addressed:

- RLS Shaft configuration, dimensions and scheduling
- Gravity Pipeline corrosion protection approach

An important part of the Stage 1 services will be establishing overall system hydraulics and operational constraints given SVCW's desire to achieve daily diurnal flow equalization, peak flow controls/limits, and effective self-cleaning of the GP and RLS facilities. The Gravity Pipeline will define the slope and diameter of the gravity pipeline that will connect to the RLS. Currently the slope is described at 0.0015 feet/foot with an inside diameter of at least 11 feet and preferably 13 feet. Early in Stage 1 the Gravity Pipeline PDB will need to review and either accept these values as their design or propose alternatives. The FoP Project Design-Builder will be responsible for the overall system hydraulics of the Gravity Pipeline and FoP facilities, including accommodating conveyance flows into the Gravity Pipeline, establishing equalization capability in the Gravity Pipeline for both dry weather and wet weather flow conditions, operational parameters that impact the RLS design, headworks design, and inter-connection piping to the main WWTP.

To address odors and corrosion in the Gravity Pipeline the Gravity Pipeline project will need to develop an odor and corrosion model building on the WATS model initiated by SVCW in coordination with the operational hydraulics defined by the FoP. SVCW will begin this modeling effort during the RFQ/RFP process and intends to provide the work product that is completed at the time the Design-Builder is contracted so that the Design-Builder can continue necessary additional development. To further address concrete corrosion issues, SVCW is working with Concrete Testing Laboratories (CTL is the research and consulting arm of Portland Cement Association) to initiate development of batch testing to address the corrosion needs of the Gravity Pipeline project. Please refer to the background documents listed in Section 1.4 of this RFP for the scopes of work associated with the CTL and WATS work efforts, respectively.

During Stage 1 and Stage 2, the Design-Builder will be required to use Building Information Modeling (BIM) systems for design and construction as an integral part of the design process to allow for alternatives development, design reviews, coordination with the FoP Project, construction scheduling/sequencing reviews, cost estimating, and post-construction data migration into SVCW's asset management system.

SVCW highly values the integration and collaboration with Operations and Maintenance (O&M) groups during the design process. SVCW will require the selected Design-Builder to engage O&M staff throughout the design process and include virtual “walk-throughs” of the BIM models to familiarize O&M staff and solicit feedback.

4.3 Stage 2 Services

Stage 2 consists of final design, construction, start-up and commissioning services. Stage 2 will be initiated upon successful completion of Stage 1 (or upon successful completion of Stage 1 for a given phase) and agreement on the pricing proposal. During Stage 2, the design will be further developed from 60% to completion, and construction will commence. Start-up, commissioning and performance testing services will follow construction completion. The Gravity Pipeline will be put into operation after construction of the FoP Project has been substantially completed.

4.4 Design-Builder Roles and Responsibilities

The Design-Builder will collaborate with SVCW and will provide in a timely manner all work necessary to complete the Gravity Pipeline scope specified in this RFP. Design-Builder responsibilities include the following, as ultimately defined in the contractual agreements between SVCW and Design-Builder:

- Stage 1: Preconstruction Services
 - Facilitate decision making and SVCW review by providing information from past experiences, research, and alternatives analyses
 - Conduct as-needed additional investigations, and prepare a Basis of Design Report.
 - Prepare design and construction documents to 30% completion in collaboration with SVCW.
 - Prepare design and construction documents to 60% completion in collaboration with SVCW.
 - Procure subcontractors and vendors for purposes of design and pricing.
 - Supervise Design-Builder personnel.
 - Use BIM for 3-D design, estimating, scheduling, financial and asset control purposes (AutoDesk AutoCAD and Oracle’s Primavera P6 platforms to be used)
 - Obtain certain governmental approvals and permits.
 - Provide and implement a Safety Plan for Preconstruction.
- Stage 2: Final Design and Construction
 - Complete design of Gravity Pipeline
 - Use BIM for 3-D design, estimating, scheduling, financial and asset control purposes (AutoDesk AutoCAD and Oracle’s Primavera P6 platforms to be used)
 - Maintain security of the construction site.
 - Implement Project health and safety practices.
 - Supervise subcontractors, suppliers and Design-Builder personnel.
 - Construct Gravity Pipeline
 - Coordinate with utility providers and SVCW for supply of power, telecommunications, and construction water to the staging areas.
 - Provide and implement a Safety Plan, noise control plan, a Storm Water Pollution

- Prevention Plan, and other plans and pollution control measures as required by federal, state, and local requirements.
- Obtain final governmental approvals and permits, unless specifically excluded from the Design-Builder scope of work.
- Provide support for SVCW's community outreach
- Implement practices and activities to address requirements associated with the certified EIR and environmental permits.
- Complete startup, commissioning, operational training, and required Acceptance Testing.
- Implement and maintain all quality control requirements and activities
- Maintain and deliver record drawings

4.4.1 Use of Designated Subcontractors

SVCW has a strong interest in assuring that SCADA integration for the Gravity Pipeline Project is consistent and compatible with the SVCW SCADA system as a whole. For the Gravity Pipeline Project this is primarily related to operations of the inlet facilities at the San Carlos Drop Structure and Bair Island Inlet Structure. Cascade Integration & Development, Inc. (CID) is SVCW's SCADA consultant and has extensive knowledge, experience and responsibility over the entire SCADA system. Therefore, each Proposer is required to include CID on its team, and if selected as the Design-Builder, to engage CID for all system integration services and development of operational screens for SCADA system. For the Stage 1 Lump Sum for CID use a \$50,000 allowance understanding that most of the CID work on the Gravity Pipeline Project will be done during Stage 2 after 60% design is complete. Communication between Proposers and CID shall be directed to Matthew Callahan at callahan@cascadeid.net, (541) 678-5070 Ext. 151.

4.5 SVCW Roles and Responsibilities

SVCW will collaborate with the Design-Builder and will fulfill its responsibilities in a timely manner to facilitate the Design-Builder's timely and efficient performance of services. Owner responsibilities include:

- Certification of Environmental Impact Report
- Furnish existing studies and provide data and information regarding the Gravity Pipeline, including record drawings, preliminary studies, environmental impact assessments, etc.
- Provide available information and provide (or engage Design-Builder to perform) additional studies that may be necessary to complete design of the Gravity Pipeline.
- Provide funding adequate for the mutually-agreed upon contract price.
- Provide access to the site and any necessary easements.
- Obtain the governmental approvals and permits SVCW is responsible for, and assist Design-Builder in obtaining governmental approvals and permits for which it is responsible.
- Collaboratively work with Design-Builder to complete Gravity Pipeline design and construction.
- Provide design and construction oversight and construction quality assurance.
- Community outreach
- Provide mitigation monitoring oversight.

- Review submissions and provide comments to Design-Builder.
- Monitor and notify Gravity Pipeline Design-Builder of FOP Project issues and status to the extent they impact the Gravity Pipeline.

5 RISK ALLOCATION AND KEY CONTRACT PROVISIONS

5.1 Risk Allocation and Responsibility Matrix

SVCW has adopted an overall risk management philosophy of reducing or mitigating risks to the extent feasible, and then assigning risks to the party best able to manage them. A preliminary responsibility matrix is included in Attachment C for review and comment by Proposers.

5.2 Draft Design-Build Agreement for Gravity Pipeline Project

A Draft Design-Build Agreement for the Gravity Pipeline Project is provided as Attachment B to this RFP. This agreement will initially apply to Stage 1 Pre-Construction services and later be amended to include Stage 2 Final Design and Construction services. Each Proposer shall review this proposed document and provide comments and proposed edits regarding any aspect of the Draft Contract about which it has any concern, including but not limited to terms that it considers ambiguous or which it believes should be modified. Such comments/edits shall be submitted to SVCW in accordance with this RFP and the schedule indicated in Table 2. SVCW will review all comments/edits received and, if it deems appropriate, in its sole discretion, may modify such document through an Addendum by providing a revised Draft Design-Build Agreement.

Proposals should anticipate that SVCW and the Successful Proposer will contract for services under the terms in the Draft Design-Build Agreement as modified by Addendum.

6 PROCUREMENT PROCESS

6.1 General

SVCW is using a two-step selection (RFQ and RFP) process to select the Design-Builder for the Gravity Pipeline. The first step involved issuance of RFQs, evaluating SOQs and establishing a short-list for Respondents invited to receive RFPs. This is the second step, which involves issuing an RFP to the short-listed Respondents, conducting a pre-proposal meeting, conducting confidential meetings, receiving proposals, evaluating proposals, conducting interviews, selecting the winning Proposer and negotiating the Stage 1 Pre-construction Services under an overall Design-Build Agreement.

6.2 Agency Contacts and Communications Protocols

Teresa Herrera shall be the Owner Contact for the purposes of this RFP and shall facilitate the RFP process. All communications shall be submitted in writing by email, and shall specifically reference this RFP. All questions or comments should be directed to the Owner Contact as follows:

Teresa Herrera
Owner's Representative
Silicon Valley Clean Water
1400 Radio Road
Redwood City, CA 94065
Email Address: GravityPipeline@svcw.org

Oral communication with the Owner Contact or other individual shall not be binding. Contact with any Public Official, SVCW Commission member, Owner's Advisor (OA), Owner's Consultants, or Owner's staff outside of the Owner Contact shall not be permitted. Failure to comply may result in disqualification of the Respondent.

6.3 Overview of RFP Process

SVCW's RFP process for the Gravity Pipeline involves issuing this RFP to the short-listed Proposers, facilitating access for site visits, holding Confidential Meetings with each Proposer, receiving proposals, evaluating proposals, additional reference checking, conducting interviews, selecting the winning Proposer and negotiating a Design Build Agreement including Stage 1 Preconstruction work. Scores from the Statement of Qualifications step will not carry forward; however, qualifications and experience will be reconsidered as part of the proposal scoring as described in Section 8.2.

Final selection criteria will include qualifications, experience and method of approach in addition to other price and non-price related criteria. Qualifications and experience during the RFP step will rely on information submitted in the SOQ, and any supplemental materials provided with the Proposer's proposal. Proposers will only be asked to submit qualification and experience-related information for new team members. Proposers will be allowed to add firms and individuals that enhance their teams or that address additional expertise requirements added by SVCW at the RFP stage. If Proposers want to change out a Key Team Member (firm or individual) listed in the SOQ, it will require submittal of additional qualifications and experience information and approval by SVCW.

6.4 Confidential Meetings

Each Proposer will be scheduled for a confidential meeting with SVCW per the schedule outlined in Table 2. Each Proposer will develop its meeting agenda and will facilitate the meeting. The purpose of the Confidential Meeting is to give each Proposer an opportunity to meet with SVCW, in a confidential setting, to enable the Proposer to present its specific project approaches/creative solutions and receive feedback from SVCW prior to submitting its proposal. In addition, this meeting can be used by the Proposer to present its comments and questions regarding the draft Design-Build Agreement and/or RFP. Earlier submittal of written questions and comments regarding the draft contract and RFP are encouraged.

Confidential meetings are anticipated to be 3-4 hours in duration and will be held at SVCW's Administration Building.

6.5 Proposal Submittals

Proposals will be submitted to SVCW per the schedule outlined in Table 2, and per the proposal requirements outlined in Section 7. SVCW will evaluate each proposal in accordance with Section 8 of this RFP prior to conducting interviews.

6.6 Interviews

Each Proposer will be scheduled for an interview date/time per the procurement schedule outlined in Table 2. Details regarding the interview schedule and format will be provided to all Proposers in advance. Interviews will be generally comprised of the following format:

- Presentation (25 minutes)
- Q&A (60 minutes)
- Closing (5 minutes)

6.7 Eligibility / Disallowed Firms

Due to their previous and ongoing work on the Project the following firms will be excluded from participating as part of a Gravity Pipeline PDB team:

- Bartle Wells Associates
- Beecher Engineering
- 6 Engineering
- Brown & Caldwell
- Chuck Fenton
- Collaborative Strategies, Inc.
- The Covello Group, Inc.
- COWI North America, Inc.
- CTL Group - Construction Technology Laboratories
- David J. Powers & Associates, Inc.
- DCM Consulting, Inc.
- Freyer & Laureta, Inc.
- Geotechnical Consultants, Inc.
- Hanson Bridgett, LLP
- JHS Consulting
- Jim Joyce
- Kennedy/Jenks
- Kip Edgley
- Tanner Pacific, Inc.
- West Yost Associates
- WRA, Environmental Consultants

6.8 Stipends

SVCW understands that the amount of engineering, design and cost estimating work typically needed to prepare a responsive design-build proposal can be significant. To assist in proposal costs, SVCW plans to award a stipend of \$50,000 to each Proposer that submits an acceptable proposal, but is not selected as the Design-Builder. The winning Proposer will not receive a stipend.

6.9 Procurement Process Schedule

It is the intent of the Owner to follow the procurement schedule provided below. The Owner reserves the right to adjust this schedule however it deems necessary. Table 2 provides a summary of the anticipated procurement process.

Table 2: Gravity Pipeline Project Procurement Dates

EVENT	DATE
Issue RFP	10:00 AM, June 8, 2017
Confidential Meetings	July 18-19, 2017
Deadline for RFIs (RFP)	5:00 PM, July 21, 2017
Responses to RFIs Issued	July 26, 2017
Proposals Due	2:00 PM, August 2, 2017
Interviews (RFP)	August 9-11, 2017
Selection of Preferred Proposer	August 28, 2017
Award Contract*	October 5, 2017
Notice To Proceed	October 19, 2017
* Earlier award is desirable.	

6.10 Inquiry Period

SVCW will receive Requests for Information (RFI) on the RFP and the Draft Design-Build Agreement from the Proposers up to the date for providing such comments as set forth in Section 6.9 of this RFP. RFIs shall be communicated to SVCW in accordance with Section 6.2 of this RFP. SVCW will issue responses to RFIs in accordance with schedule presented in Section 6.9.

6.11 Withdrawal of Proposals

Proposers may withdraw a Proposal by providing a written request, duly executed by an authorized representative, and delivered to the Owner Contact at any time prior to the Proposal Submittal Deadline. Individuals making the withdrawal shall provide evidence of serving as an authorized representative of the Proposer. Proposals withdrawn by the Proposer prior to the Proposal Submittal Deadline can be claimed by the Proposer within ten (10) days following the Proposal opening. After that time, they will be destroyed. Proposals, once opened by SVCW at the time of Proposal Submittal Deadline, shall not be withdrawn or modified except to the extent agreed to by SVCW during subsequent contract negotiations.

6.12 Validity of Proposal

The offer represented by each Proposal will remain in full force and effect for up to a maximum of one hundred and twenty (120) days after the Proposal Submittal Deadline. If the Contract Award has not

been issued to Design-Builder by SVCW within one hundred and twenty (120) days after the Proposal Submittal Deadline, each Proposer that has not previously agreed to an extension of such deadline shall have the right to withdraw its Proposal. SVCW may, at its sole discretion, allow a Proposer to withdraw its Proposal prior to that date.

6.13 Addenda

If any revisions to this RFP become necessary (other than changes to the Proposal Submittal Deadline), SVCW will make Addenda available at least seven (7) calendar days before the Proposal Submittal Deadline. SVCW may extend the Proposal Submittal Deadline via addendum at any time. It is the responsibility of all Proposers to ascertain whether any addenda have been issued before the Proposal Submittal Deadline by checking SVCW's Website. If an Addendum is issued, Proposer must acknowledge receipt of Addendum in the appropriate location of the Affidavit of Authenticity Form, included in Attachment D (Proposal Forms) of this RFP.

All questions about the meaning, intent or any other aspect of the RFP shall be submitted in writing to the Owner Contact. Interpretations or clarifications considered necessary in response to such questions will be issued by Addendum to all Proposers. Questions received after the Deadline for RFIs date listed in Section 6.9 of this RFP may not be answered. Only answers issued by Addendum will be binding. Oral and other interpretations or clarifications will be without legal effect.

6.14 Business Licensing Requirements

Each Proposer is responsible for determining and complying with all applicable business licensing requirements necessary to complete the Project's scope of work. The Successful Proposer shall be required to provide evidence to SVCW that it is authorized to do business in California at the time of submitting its proposal and prior to award of the Design-Build Agreement.

6.15 Designer Licensing Requirements

Each Proposer is responsible for determining and complying with all applicable professional licensing requirements necessary to complete the Project's scope of work.

6.16 Contractor Registration Requirements

Effective March 1, 2015, Senate Bill 854 requires SVCW to use only contractors and subcontractors on public projects that have been registered with the State of California Department of Industrial Relations. Thus, the Successful Proposer and its known subcontractors shall be required to provide evidence to SVCW that it possesses required registrations, at the time of submitting its proposal and prior to award of the Design Build Agreement including Stage 1 preconstruction work. Proposer shall complete and submit in Appendix D of its Proposal the Public Works Contractor Registration Form included in Attachment D (Proposal Forms) of this RFP.

The Successful Proposer shall be required to provide evidence to SVCW that it possesses a valid Contractor's License issued by the Contractor's State License Board, at the time of submittal of its proposal and prior to award of the Design Build Agreement including Stage 1 preconstruction work. The class of license shall be applicable to the Project work.

Each Proposer is responsible for determining and complying with all applicable contractor licensing and registration requirements necessary to complete the Project's scope of work.

7 PROPOSAL SUBMITTAL REQUIREMENTS

Proposals shall be concise, well organized and demonstrate the responder's applicable experience, proposed team, project approach and pricing for the Gravity Pipeline. The Proposal must address the information identified in the following sections.

7.1 Submittal Deadline and Location

Submissions must be received no later than 2:00 p.m. (local time) on due date stated in the Procurement Process Schedule at the offices of:

Silicon Valley Clean Water
1400 Radio Road
Redwood City, California 94065
(650) 591-7121

7.2 Page Limitations, Required Copies, and Labeling

Proposals limited to forty (40) total pages (most or all 8½ x 11 inch with 1-inch or greater margins), excluding the transmittal letter, index or table of contents, front and back covers, title pages/separation tabs, separate envelopes and appendices will be favorably considered. Limited use of 11 x 17-inch tri-fold format pages for graphics and schedules is permitted. Eleven-point font or larger must be used in Proposal Sections. Font size associated with any graphics or exhibits included in Proposal may be less than eleven-point font.

The Proposer shall submit seven (7) paper documents (one [1] original and six [6] copies) each contained within a binder, as well as one (1) electronic version of its Proposal (without the three financial envelopes) on a flash drive in searchable PDF format (Appendices are not required to be searchable). The Proposer shall also submit one (1) paper document (one original) of its Stage 1 and Mark-up Percentage Cost Proposal in a single, sealed envelope or package separate from the remainder of its Proposal, and without an electronic version included (labeled with proposers name and "Stage 1 and Mark-up Percentage Cost Proposal"). The Proposer shall also submit one (1) paper document (one original) as well as one electronic version of its Indicative Cost Estimate on a flash drive in searchable PDF format as well as native format (working spreadsheet and working schedule) of its Indicative Cost Estimate submitted in a single, sealed envelope or package separate from its the remainder of its Proposal in accordance with the Indicative Cost Estimate preparation guidelines (labeled with proposers name and "Indicative Cost Estimate. To be opened after all other scoring completed."). Documents are to be submitted in sealed packages with the following information clearly marked on the outside of each package:

Name of Proposer
Project Title

Failure to comply with the requirements of this RFP may result in disqualification. Proposals received subsequent to the time and date specified above will not be considered. SVCW will not be reimbursing Proposers for any efforts and expenditures in producing and submitting Proposals for the Gravity Pipeline other than the Stipend payment described in Section 6.8.

7.3 Submission Content and Scoring

Proposals submitted in response to this RFP shall be in the following order and shall include the following:

- Transmittal Letter
- Section 1 – Understanding of Key Issues/Challenges
- Section 2 – Project Approach
- Section 3 - Innovative/Alternative Ideas.
- Section 4 – Schedule
- Section 5 – Pricing Approach
- Appendix A – Stage 1 Scope of Work
- Appendix B – Project Schedule Details
- Appendix C – Updated SOQ Materials
- Appendix D – Proposal Forms
- Separate Pricing Submittal Envelopes
 - Envelope 1: Stage 1 and Mark-up Percentages Cost Proposal
 - Envelope 2: Indicative Cost Estimate
 - Envelope 3: Financial Statements

The content requirements set forth in this RFP represent the minimum content requirements for the Proposal. It is the Proposer's responsibility to present all relevant information and other materials in its Proposal. The Proposal, however, should not contain standard marketing or other general materials. It is the Proposer's responsibility to modify such materials so that only directly relevant information is included in the Proposal.

7.3.1 Transmittal Letter

Proposers must submit a transmittal letter (maximum two pages) on the Proposer's letterhead. It must be signed by a representative of the Proposer who is authorized to sign such material and to commit the Proposer to the obligations contained in the Proposal. The transmittal letter must include the name, address, phone number and email address for the Proposer's Contact, and must specify the Design-Builder's signatory to any contract documents executed with the Owner.

If the Proposer's Project Team has changed from its SOQ, or if any other information provided in the SOQ is no longer true or accurate, then the Proposer shall provide updated information that is true and

accurate. Proposers are reminded that if any members of the Project Team listed in the Proposer's SOQ have been removed, unless otherwise specified or allowed in the RFP, Proposer's Proposal may be rejected.

The Transmittal Letter may include other information deemed relevant by the Proposer.

7.3.2 Section 1 – Understanding of Key Issues/Challenges

Proposer shall demonstrate its knowledge of the Project requirements and needs. Proposers shall provide a narrative that clearly identifies key issues/challenges and describes its understanding of these key project issues/challenges in both design and construction of the project. The proposer is encouraged to describe examples of previous experiences in addressing similar issues/challenges, and how its project understanding and experience is beneficial to meeting SVCW objectives.

7.3.3 Section 2 - Project Approach

Proposer shall provide a description of the approach for managing and performing its services during the Project. Specifically, Proposers shall provide a narrative for each item below that clearly describes its approach to managing the project activities, including any examples from previous experiences, and how its approach is beneficial to meeting SVCW objectives.

- Describe the anticipated roles and responsibilities of Project Team members (design and construction), including subconsultants and subcontractors during Stage 1 and Stage 2.
- Include a discussion regarding the anticipated Project Team staff members that will be located onsite during Stage 1 and Stage 2 and which members will be located offsite. SVCW plans to have trailer offices set up on the FoP site by October 2017 for SVCW, OA, QA and Design-Builder staff. If not full time on-site describe how many days per week on average specific key personnel will be located on site. Identify who will be key in coordinating early decision items and how the key individual(s) will facilitate decision-making with SVCW and FoP Design-Builder (shaft design, air movement, hydraulics).
- Discuss how a collaborative relationship would be established with SVCW, including O&M staff, and the FoP Design-Builder
- Describe your approach to evaluating alternative project ideas including those in Section 3 below.
- Describe which Project Team member(s) are anticipated to self-perform which work elements. Describe the Proposer's capability to self-perform specific construction work elements.
- Describe your approach to subcontracting
- Describe your design and construction process interface
- Describe how you will use BIM for 3D design, cost estimating, scheduling, financial management and asset management
- Describe your process for complying with government loan requirements
- Describe your process for complying with permitting and mitigation requirements
- Discuss how key risk factors will be identified and addressed

- Describe your project specific Safety Plan
- Describe your project specific Quality Control Plan

Proposers project approach should be reflected in their proposed scope of work for Stage 1, which is to be included as Appendix A (i.e. the approach described in Section 2 and the scope of work provided in Appendix A should be consistent).

7.3.4 Section 3 - Innovative/Alternative Ideas

Discuss any innovative or alternative ideas and approaches to completing the design and construction of the Project. Demonstrate the Proposer's ingenuity through design concepts, construction materials, and construction methods to achieve Gravity Pipeline Project Objectives. Provide any examples of where suggested innovative or alternative approaches have been successfully implemented by the Proposer. Include the following areas:

- TBM launching and recovery
- Tunnel excavation production rates
- Surface settlement
- Alternative approaches to gravity pipeline interior surfaces
- Odors, air movement, sulfides and corrosion
- Inlets
- Ease of operation and maintenance
- Stakeholder interests including permitting and CEQA

7.3.5 Section 4 –Schedule

Proposer shall describe its scheduling approach to Stages 1 and 2 of the project, including description of potential schedule savings ideas and approaches. Proposer's description of Stage 2 work should describe the Proposer's construction phasing approach, including potential use of multiple Stage 2 packages to improve the project schedule. Descriptions of the proposers scheduling approach and sequencing graphics should be included in this section, with Stage 1 and Stage 2 Gantt chart schedules included in Appendix B. Proposer's Stage 1 schedule should follow a similar work break down structure as the Proposer's scope of work, and Proposer's Stage 2 schedule should be consistent with its Stage 2 indicative price.

7.3.6 Section 5 –Pricing Approach

Proposer shall provide in the Proposal, at a minimum, the following information:

- Describe the Proposer's approach to developing the cost model, including key assumptions as well as the reporting and trending capabilities the Proposer recommends.
- Describe Proposer's philosophy on contingency, including the development and management of such contingency.

- Define the process the Proposer intends to use for subcontractor/supplier engagement, including engagement of local resources.
- Describe the Proposer's approach to cost effectively complete shaft and tunnel excavation including tunnel excavation rates. Discuss key tactics that will reduce or eliminate inefficiencies from the Project.
- Discuss and demonstrate the Proposer's approach to providing for equipment, material and subcontractor cost competitiveness. Discuss key cost control steps and/or measures in both the design and construction of the Project.
- Discuss proposed means to demonstrate cost competitiveness for work that is proposed to be self-performed.
- Describe your approach to consideration of life-cycle costs. In accordance with Public Contracting Code 22164, pricing evaluations will include consideration of Proposer's project approach to life-cycle costs over at least 15 years.
- Present your knowledge of state and federal payroll-reporting requirements and describe how your invoicing and cost tracking will enable you to comply with such requirements.

7.3.7 Appendix A—Stage 1 Scope of Work

The Proposer shall provide a detailed scope of work for Stage 1 services up through and including development of the Stage 2 contract price and negotiation of an amendment for Stage 2 services. The proposer's scope of work, schedule and Stage 1 price shall generally follow the scope of work outline in Attachment E.

7.3.8 Appendix B – Project Schedule Details

Proposer shall provide in Appendix B Gantt chart schedules for Stages 1 and 2 of the Project (see Indicative Cost Estimate Instructions).

7.3.9 Appendix C – Updated SOQ Materials

Proposer shall furnish any materials from its previously furnished SOQ requiring update, inclusive of changes to project team organization and team members. Furnish 2-page resumes for any key team members added to the project team since the SOQ submittal.

7.3.10 Appendix D – Proposal Forms

Proposer shall complete and provide the following forms within Appendix D of its proposal:

- Affidavit of Authenticity
- Insurance Company Letter of Intent
- Surety Letter of Intent
- Public Works Contractor Registration Form
- Non-Collusion Declaration
- Iran Contracting Prohibition Certification

- Organizational Conflict of Interest Certification
- Worker's Compensation Certification
- California Professional Engineer Licensing

7.3.11 Separate Submittal Envelopes

Three envelopes or packages shall be submitted in clearly marked separate sealed envelopes or packages at the same time as the overall proposal is submitted. Each envelope or package shall be clearly marked with the Proposer's name and the following:

- Envelope 1: Stage 1 and Mark-up Percentage Cost Proposal, including hourly billable rates for all personnel and Contractor-owned equipment rates.
- Envelope 2: Indicative Cost Estimate. To be opened after all other scoring completed.
- Envelope 3: Financial Statements. Provide audited financial statements, including footnotes, for the proposed Design-Builder for the past three years. If the proposed Design-Builder is a joint venture, such financial statements must be provided for each partner or member of the JV

All cost and financial information shall be included in the three separate envelopes. No cost information shall be included in the Proposal (including within the cover letter and appendices) other than in the separate envelopes. If any specific cost information is included in the Proposal other than in the separate envelopes, the Proposer's Proposal may be rejected.

The Proposer shall complete the provided Stage 1 and Mark-up Percentage Cost Proposal form, including hourly billable rates for all personnel and Contractor-owned equipment rates, which is included in Attachment E (Project Pricing Forms) of this RFP (Envelope 1).

The Stage 1 cost proposal shall be the proposed Stage 1 contract amount as of the effective date of the Design-Build Agreement, for which the Design-Builder is contractually obligated to perform the Stage 1 work. The Mark-up Percentage and rates (hourly billable rates for all personnel and Contractor-owned equipment rates) shall be the proposed Mark-up Percentage and rates as of the effective date of the Design-Build Agreement, which the Design-Builder is contractually obligated to use during the Stage 2 work.

The intent of the indicative price (Envelope 2) is to establish the Proposer's understanding of the project and overall level of effort relative to the Capital Improvement Program budget. Scoring of the indicative price will be reflective of the Proposer's project understanding, reasonableness of rates, estimate clarity and conformance with the overall project requirements. Scoring of the indicative price will not be based on low cost. The Indicative Price shall be prepared in accordance with the instructions included in Attachment E.

The purpose of the financial statements (Envelope 3) is to confirm the financial strength of the Design-Builder.

8 PROPOSAL EVALUATION

8.1 General

The Proposals will be reviewed and evaluated by SVCW's Evaluation Committee according to the requirements and criteria outlined in this Section. The Evaluation Committee will open and review the Proposals in confidence.

During the Proposal evaluation process, written questions or requests for clarifications may be submitted to one or more Proposers regarding its Proposal or related matters. Failure to respond in a timely manner to any such questions or requests may be grounds for elimination of the Proposer from further consideration.

The selection process will consist of the following:

1. SVCW will receive and open the Proposals except for the separate cost envelopes.
2. SVCW Evaluation Committee members will review and score each Proposal based on the evaluation criteria (prior to opening the two cost envelopes).
3. Interviews will be conducted.
4. The interviews will be scored by the Evaluation Committee based upon the evaluation criteria.
5. The two cost envelopes will be opened and scored after all other scoring is completed for all Proposers.
6. All scores will be added to establish a total score for each Proposer. The Proposers with the highest three scores will be ranked and the Proposer with the highest score and rank will be selected as the Successful Proposer to enter into negotiations with SVCW.

SVCW will evaluate the proposals based on the Best Value to SVCW.

8.2 Evaluation Criteria Scoring

The evaluation criteria are intended to allow SVCW to evaluate specific aspects of a Proposer's Proposal. Scoring as defined in the evaluation criteria presented below will be based on how well the Proposers in their submittals and interviews address the program success factors and Project objectives.

SVCW will evaluate and rank the Proposers by scoring the evaluation criteria as shown in Table 3. Following the Best Value ranking, SVCW may, at its sole discretion, elect to proceed with award of the contract without negotiations, or it may proceed with negotiations with the top-ranked Proposer prior to award. Negotiations may involve any aspect of the Contractor's Proposal and any provision of the Contract Documents. SVCW may also initiate negotiations to reduce costs to meet budget. Because SVCW has the right to award the Contract without negotiations, all Proposers must commit to entering into the Agreement based upon their Proposals submitted in response to this RFP.

Any decision to commence negotiations regarding the Agreement and any topics of negotiation are at SVCW's sole discretion. If negotiations commence, the Proposer may raise issues only to the extent they

are interrelated with negotiated topics raised by SVCW. If for any reason SVCW is unable to successfully negotiate the Agreement with the top-ranked Proposer, SVCW will then enter into negotiations with the Proposer that received the next highest ranking, following the above-described process, until a contract is awarded, all of the Proposals are rejected, or SVCW decides to terminate this procurement.

Table 3: Summary of Proposal, Interview and Fee Scoring

Proposal Scoring	
Criterion	Maximum Possible Points
Qualification and Experience	10
Understanding of Key Issues/Challenges	15
Project Approach	20
Innovative/Alternative Ideas	20
Schedule	10
Pricing Approach	5
Approach to Consideration of Lifecycle Cost	5
Subtotal	85
Interview Scoring	
Criterion	Maximum Possible Points
Qualification and Experience	10
Understanding of Key Issues/Challenges	15
Project Approach	20
Innovative/Alternative Ideas	20
Schedule	10
Pricing Approach	5
Approach to Consideration of Lifecycle Cost	5
Subtotal	85
Fee Scoring	
Criterion	Maximum Possible Points
Stage 1 Cost Proposal	6
Stage 2 Mark up Percentages	14
Indicative Cost Estimate	10
Subtotal	30
Total	200

8.3 Selection of Successful Proposer

The Proposer receiving the maximum score against the criteria summarized in Table 3 will be deemed the highest ranked Proposer. SVCW will notify all Proposers of the selection outcome, with the intent to execute the Design Build Agreement with the highest ranked Proposer.

9 LIMITATIONS

This section sets forth SVCW rights and disclaimers, restrictions due to conflicts of interest, how SVCW will treat information considered by Proposers to be confidential and / or proprietary, protest procedures, and obligations of the Proposer and, once selected, the Design-Builder with respect to required documentation to funding sources and obligations to keep the Proposer's team intact throughout the procurement process.

9.1 SVCW Rights

In connection with this procurement, the SVCW reserves to itself all rights (which rights shall be exercisable by the SVCW in its sole discretion) available to it under the Public Contract Code and applicable law, including without limitation, the following, with or without cause and with or without notice:

1. Cancel, modify, or withdraw the RFP without incurring cost obligations or liabilities
2. Issue a new RFP, or modify dates set or projected in the RFP
3. Accept or reject any or all Proposals or information submitted related to a Proposal
4. Issue Addenda, supplements and modifications to the RFP
5. Modify the procurement process with appropriate notice to Proposers as applicable
6. Solicit Best and Final Offers (BAFO) from all Proposers short-listed.
7. Appoint an Evaluation Committee and evaluation teams to review Proposals and consider the advice and assistance of non-Owner experts in evaluations
8. Approve or disapprove particular subcontractors, substitutions of subcontractors, or changes in Key Personnel submitted
9. Seek or obtain data from any source that has the potential to improve the understanding and evaluation of the Proposals
10. Revise and modify, at any time before the Proposal Deadline, the factors it will consider in evaluating Proposals and to otherwise revise or expand its evaluation methodology.
11. Conduct interviews and/or discussions with Proposers;
12. Waive any weaknesses, informalities, irregularities, or omissions, permit corrections, and seek and receive clarifications
13. Disqualify any Proposer that changes its organization or other information included in the SOQ without SVCW written approval
14. Hold the Proposals under consideration for the maximum duration of the proposal validity period specified in the RFP or longer if there is a mutual agreement
15. Award the Contract, with or without negotiations, to the Proposer determined by the SVCW to have offered the Best Value to the SVCW
16. Disclose information contained in the Proposals to the public as described in the RFP

17. Not issue a Notice to Proceed after execution of the Contract if specific contractual requirements are not met by the Contractor
18. Terminate evaluations of Proposals received at any time
19. Require confirmation of information, additional information concerning a Proposal, or require additional evidence of qualifications to perform the work described in this RFP
20. Contact and ask questions of contact persons
21. Accept other than the lowest Price Proposal as the Best Value Proposal
22. Short-list, hold discussions and/or request BAFOs
23. Approve or disapprove changes to the Proposer Teams
24. Add or delete Contract work
25. Negotiate with one or more Proposers
26. Suspend and/or terminate negotiations, engage in negotiations with other than the highest ranked Proposer if negotiations with the highest ranked Proposer prove to be unsuccessful;
27. Retain ownership of all Proposals and materials submitted in hard-copy and/or electronic format.
28. Exercise any other right reserved or afforded to the SVCW under the RFP.
29. Reject or refuse to consider a submitted Proposal if such refusal or rejection is based upon listed circumstances
 - a. Failure on the part of the a Principal Participant to pay, satisfactorily settle, or provide security for the payment of claims for labor, equipment, material, supplies, or services legally due on previous or ongoing contracts;
 - b. Submittal by the Proposer of more than one Proposal for the same work under the Proposer's own name or under a different name;
 - c. Participation by a Principal Participant in more than one Proposal in response to the RFP;
 - d. Evidence of collusion between a prospective Proposer, any Principal Participant or Lead Designer and other Proposers, Principal Participants or Lead Designers in the preparation a Proposal, or any pricing for the Project;
 - e. Uncompleted work or default on a contract for which the prospective Proposer or a Principal Participant is responsible which, in the judgment of the SVCW, might reasonably be determined to hinder or prevent the prompt completion of work on this Contract if awarded;
 - f. Existence of a notice of debarment or suspension in any jurisdiction;
 - g. Evidence of inadequate financial resources to ensure successful completion of all work under this Contract;
 - h. Failure to obtain required bonds or specified insurance for this Project;
 - i. Proposer refusal to further negotiate pricing, or Contract terms and conditions, in advance of execution of the Contract;
 - j. Evidence of Proposer or Principal Participant noncompliance with any federal, state or local laws or regulations; or
 - k. By virtue of the SVCW exercising any other right reserved or afforded to the SVCW under the RFP or under the Public Contract Code and applicable law.

9.2 SVCW Disclaimers

In issuing this RFP and undertaking the procurement process specified herein, SVCW disclaims the following:

1. Any obligation, responsibility or liability, fiscal or otherwise, to reimburse a Proposer for all or part of the costs incurred or allegedly incurred by parties considering a response to and/or in responding to the RFP.
2. Any obligation to Award the Contract to the Proposer submitting the lowest priced Proposal
3. Any obligation to Award the Contract
4. Any contractual obligation or liability for, any obligations with respect to the Project until such time (if at all) as a contract, in form and substance satisfactory to the SVCW, has been authorized and executed.

The Proposer acknowledges that, by submitting a Proposal in response to the RFP, it accepts these disclaimers and waives any right whatsoever to legally challenge or protest any Owner's actions that exercise these disclaimers.

9.3 Conflicts of Interest

Each Proposer, and their respective team members, subcontractors and subconsultants must comply with SVCW's Organizational Conflict of Interest Policy for Design-Build Projects. This policy was developed to address the ability of a person or entity to submit a proposal as a design-build entity or to join a design-build team. The Proposer and their respective team members, subcontractors and subconsultants must complete and submit with its proposal the Organizational Conflict of Interest Certification included in Appendix D, Proposal Forms.

9.4 Obligations Regarding SRF and WIFIA Compliance

Design-Builders shall be required to meet requirements of SVCW's funding sources. The SRF loan program includes specific requirements for projects that will be required to be met by the Design-Builder. These include:

- Disadvantaged Business Enterprise "Good Faith" effort and reporting of DBE utilization
- Davis-Bacon prevailing wage requirements
- American Iron and Steel requirements (unless waiver is obtained)

The WIFIA program is relatively new and the specific requirements are unknown at this time. It is anticipated that requirements will be similar to SRF. SVCW is currently investigating WIFIA requirements. Any WIFIA requirements that differ from the SRF requirements will be added by addendum to this RFP or during negotiations with the top-ranked proposer.

9.5 Proprietary and Confidential Information

All Proposals submitted in response to this RFP become property of SVCW and will be kept confidential until a recommendation for award of a contract has been announced. Thereafter, except for financial statements and specific information that the Proposer identifies and agrees to defend as not subject to disclosure, Proposals are subject to public inspection and disclosure under the California Public Records Act. (Government Code Section 6250 et seq.) Therefore, unless the information is exempt from

disclosure by law, the content of any Proposal, or related submission, between SVCW and any Proposer regarding the procurement, shall be available to the public.

If a Proposer believes any portion of its Proposal or related communication contains trade secrets or other proprietary information that the Proposer believes would cause substantial injury to the Proposer's competitive position if disclosed, the Proposer may request that SVCW withhold from disclosure the proprietary information by marking each page containing such proprietary information as confidential. By submitting a Proposal with portions marked —confidential, a Proposer represents it has determined such portions qualify for exemption from disclosure under the California Public Records Act. A Proposer may not designate its entire Proposal as confidential. SVCW will not honor such designations and will disclose submittals so designated to the public. The foregoing statement does not impact the fact that SVCW will treat Proposals as confidential during the RFP evaluation and selection process.

If a Proposer requests that SVCW withhold from disclosure information identified as confidential, and SVCW complies with the Proposer's request, Proposer shall assume all responsibility for any challenges resulting from the non-disclosure, indemnify and hold harmless SVCW from and against all damages (including but not limited to attorneys' fees that may be awarded to the party requesting the Proposer information), and pay any and all costs and expenses related to the withholding of Proposer information. Proposer shall not make a claim, sue, or maintain any legal action against SVCW or its directors, officers, employees, or agents concerning the withholding from disclosure of Proposer information. If Proposer does not request that SVCW withhold from disclosure information identified as confidential, SVCW shall have no obligation to withhold the information from disclosure and may release the information sought without any liability to SVCW.

9.6 Obligation to Keep Team Intact

Proposers are advised that all firms and Key personnel identified in the SOQ shall remain on the Gravity Pipeline Team for the duration of the procurement process and execution of the Project. (The anticipated dates for award of the PDB Contract and for completion of the Gravity Pipeline are set forth in Section 3.7 of this RFP.) If extraordinary circumstances require a change, it must be submitted in writing to the Owner Contract, who, at his or her sole discretion, will determine whether to authorize a change, recognizing that certain circumstances (such as termination of employment) may occur that are beyond the Design-Builder's control. Unauthorized changes to the Project Team at any time during the procurement process may result in elimination of the Proposer from further consideration.

9.7 Protest Procedures

SVCW will entertain appeals regarding this RFP process only as set forth in this Section.

Appeals Prior to Proposal Submittal Date

Appeals may be based upon restrictive requirements or alleged improprieties in the RFP that are apparent or reasonably should have been discovered prior to SVCW's receipt of Proposals. Such appeals shall be filed in writing with the Owner's Representative, at least five calendar days prior to SVCW's receipt of Proposal. The appeal must clearly specify in writing the grounds and evidence on which the appeal is based.

No Appeals of Substantive Scores

SVCW will not entertain appeals regarding, or reconsider, substantive scores or determinations made in the evaluation process.

SVCW Response to Appeals

SVCW will respond to an appeal in writing within four calendar days of receipt, and SVCW's determination shall be final.

Sole Appeal Procedures

The appeal procedures summarized in this Section comprise the sole appeal procedures for this RFP. A Proposer's failure to comply with the procedures set forth herein will likely result, at the sole discretion of SVCW, in rejection of the appeal.

Attachments

Table of Contents:

Attachment A: Base Design Criteria

Attachment B: Draft Design-Build Contract for Gravity Pipeline Project

Attachment C: Draft Responsibility Matrix

Attachment D: Proposal Forms

- D.1 Affidavit of Authenticity
- D.2 Insurance Company Letter of Intent
- D.3 Surety Letter of Intent
- D.4 Public Works Contractor Registration Form
- D.5 Non-Collusion Declaration
- D.6 Iran Contracting Prohibition Certification
- D.7 Organizational Conflict of Interest Certification
- D.8 Worker's Compensation Certification
- D.9 California Professional Engineer Licensing

Attachment E: Scope of Work Outline

Attachment F: Project Financial Forms and Instructions

Attachment A

Base Design Criteria

The "Base Design Criteria," were developed by the Owner to provide an outline of the Project requirements and scope. The Base Design Criteria provide a basis for the Design-Builder's Contract Price, Project Baseline Schedule and design work. The Design-Builder is expected to expand on, elaborate, and enhance the Base Design Criteria in collaboration with Owner during Stage1 to create a complete set of Design Criteria (Basis of Design Report) to guide the remainder of the Work. The Design-Builder may propose changes to the Base Design Criteria. Any such changes must be acceptable to the Owner.

Attachment A

Base Design Criteria

Table 1-1: Criteria and Standards

Category	Subject	Criteria and Standards	Related Section or Tech Memo
Geotechnical Investigation and Reports			
	Borehole and Cone Penetration Test (CPT)	Geotechnical Borings and CPT tests were performed at approximately every 250 feet along the Gravity Pipeline alignment shown in the EIR. Multiple boring investigations were made at each proposed shaft location. PDB shall obtain additional data as PDB determines is needed.	GDR
	Geotechnical Data Report (GDR)	A GDR has been prepared for this Gravity Pipeline and has been made available to PDBs for reference. PDB shall obtain additional data as PDB determines is needed.	
	Geotechnical Baseline Report (GBR)	The GBR shall be produced by the PDB in collaboration with SVCW prior to start of Stage 2. Both SVCW and PDB shall approve the GBR. The GBR shall establish a common basis for evaluating risks and defining changes to the Stage 2 contract price..	GBR
Civil Design			
Hydraulic Requirements	Ranges of Flow	The tunnel pipe receives flows only from Inner Bair Island and San Carlos Connections. The flows listed in "Design Flows and Capacity for SVCW Conveyance System Projects" dated January 25, 2017 shall be used for design (flows excerpted and provided at the end of this Base Design Criteria table).	Planning Level TM #1
	Emergency Overflow Locations	The Project shall coordinate with the FoP PDB and SVCW to provide for emergency overflow location(s).	
	Cleansing Velocities & Sediment Transport	Either maintain flows to keep solids suspended or solids re-suspension velocity shall be achieved frequently enough to prevent accumulation and caking that would adversely affect odors, corrosion and downstream treatment. The project shall coordinate with the FOP PDB and SVCW to achieve re-suspension velocity for at least one hour each day.	
	Manning Coefficient (proposed value)	0.013 shall be used (typically biological growth in sewer pipe inverts result in similar roughness, regardless of pipe type)	

Attachment A
Base Design Criteria

Category	Subject	Criteria and Standards	Related Section or Tech Memo
	Flow Equalization	Tunnel shall provide for both diurnal and wet weather flow equalization operation. Daily equalization intended to achieve roughly average daily flow all day long. Wet weather equalization to achieve roughly 60 mgd rate into plant.	
	Air Movement	Bair Island: Typical operation is air entry only. In large wet weather events resulting in filling the tunnel to top at SCPS, air escape must be allowed (no treatment). SCDS: Typical operation air sucked into tunnel but not allowed to escape at SCDS. When during storms the tunnel is full at RLS, air to escape and be treated at SCDS.	
	Air Treatment	The Project shall coordinate with the FoP PDB and SVCW related to treatment of foul air coming from the Gravity Pipeline as well as other air coming from the FoP facilities. The Project shall provide temporary foul air treatment at the SCDS site for air coming from the Gravity Pipeline to minimize foul air complaints in the interim until the SCPS is decommissioned and permanent foul air treatment facilities are constructed by others inside the SCPS building. The Project shall also provide air piping to the outside of the SCPS building necessary for the future construction of a permanent foul air treatment system inside the building.	

Attachment A
Base Design Criteria

Category	Subject	Criteria and Standards	Related Section or Tech Memo
Gravity Pipeline Alignment	Horizontal Alignment		Planning Level TM No. 2
	Clearance from Property Line	Minimum 2-foot clearance between property line and tunnel outside diameter. SVCW easements are being defined based on a 15’ outside diameter tunnel.	
	Horizontal Curvature	Minimum 800-foot radius (tunnel centerline), 1,000-foot plus radius where practical.	
	Vertical Alignment		
	Vertical Curvature	Minimum 800-foot radius (tunnel centerline), 1,000-foot plus radius where practical.	
	Slope	Meet the criteria associated with cleansing velocities and sediment transport. Minimum slope shall be 0.0015 feet per foot.	
	Separation from Young Bay Mud	The tunnel is to be placed in the upper layer sediments (ULS) stratum, which has been identified below the young bay mud (YBM) layer extending along the entire length of the proposed alignment. Separation distance between the crown of the tunnel excavation and the soft YBM interface is to be minimum 3.5-ft and 5-ft typical.	
	Separation from major utilities such as 48-inch force main at Pulgas Creek	An evaluation shall be conducted by the PDB entity to determine the minimum separation of utilities from the tunnel. For utilities with less than the defined minimum separation, additional measures to minimize the tunnel influence on the utilities will be required.	
	Separation from Pulgas Creek bottom	Minimum one tunnel outside diameter, 20’ if practical.	

Attachment A
Base Design Criteria

Category	Subject	Criteria and Standards	Related Section or Tech Memo
Structural	Carrier Pipe Pressure Rating	Capable of withstanding internal pressure resulting from static head between ground surface elevation and carrier pipe invert elevation, including any surge pressure, without consideration of the external groundwater pressure. Capable of withstanding exterior groundwater hydrostatic and grouting pressures.	
	Concrete Tunnel Segments and Carrier Pipe Loading	Designed to withstand transportation, handling and installation loads, groundwater hydrostatic pressure, live load and dead load during its service life and any other loads that may be reasonably expected.	
	Flexibility	Concrete Tunnel Segments, Carrier pipe and connections shall provide adequate flexibility to meet the seismic loading	
	Code Requirements	<p>The Project shall comply with all applicable codes including:</p> <ul style="list-style-type: none"> American Concrete Institute (ACI) <ul style="list-style-type: none"> ACI 318: Building Code Requirements for Structural Concrete American Welding Society (AWS) Codes <ul style="list-style-type: none"> AWS D1.1/D1.1M: Structural Welding Code-Steel AWS D1.8/D1.8M: Structural Welding Code-Seismic Supplement American Association of State Highway and Transportation Officials (AASHTO) – As applicable to tunnels and shafts. <ul style="list-style-type: none"> AASHTO/AWA D1.5M/D1.5: Bridge Welding Code AASHTO Guide Specifications for LRFD Seismic Bridge Design AASHTO Guide Specifications for Seismic Isolation Design AASHTO LRFD Bridge Construction Specification California Building Code (CBC) American Society of Civil Engineers (ASCE) <ul style="list-style-type: none"> ASCE 7: Minimum Design Loads for Building and Other Structures American Institute of Steel Construction (AISC) 	Planning Level TM No. 3

Attachment A
Base Design Criteria

Category	Subject	Criteria and Standards	Related Section or Tech Memo
		<ul style="list-style-type: none"> – Steel Construction Manual • California Department of Transportation (Caltrans) Bridge Design Manual (CBDM) – As applicable to tunnels and shafts. – Caltrans Bridge Design Specification – AASHTO LRFD Bridge Design Specifications and California Amendments (to the AASHTO LRFD Bridge Design Specifications) – Caltrans Bridge Memo to Designers Manual (CMTD) – Caltrans Bridge Design Practices Manual (CBDP) – Caltrans Bridge Design Aids Manual (CBDA) – Caltrans Bridge Design Manual (CBDD) – Caltrans Seismic Design Criteria (CSDC) 	
		<ul style="list-style-type: none"> • Federal Emergency Management Agency (FEMA) – As applicable to tunnels and conveyance systems. – Seismic Guidelines for Water Pipelines 	
	Dead Load	<ul style="list-style-type: none"> ○ Tunnel <ul style="list-style-type: none"> • Self-weight of structures and their components • Vertical Earth pressure ○ Shafts <ul style="list-style-type: none"> • Self-weight of structures and their components <ul style="list-style-type: none"> – Permanent structures: The dead load will include the weight of all components of structures, finishes, utilities attached to the structures, earth cover and all permanent installations supported by the structures. – Initial Support: Applicable dead loads will be used without the final finishes or installations. 	Planning Level TM No. 3

Attachment A
Base Design Criteria

Category	Subject	Criteria and Standards	Related Section or Tech Memo
	Live Load	<ul style="list-style-type: none"> ○ Tunnel <ul style="list-style-type: none"> • Surcharge loads • Horizontal earth pressure • Seismic loads • Hydrostatic pressure • Jacking loads in advancing the TBM • Handling and erection loads • Grouting pressure (for pipe-in-tunnel only) ○ Shafts <ul style="list-style-type: none"> • Surcharge loads <ul style="list-style-type: none"> – Construction loads – Traffic loads – Adjacent buildings or structures • Horizontal earth pressure • Seismic loads • Hydrostatic pressure <p>The magnitude of these loads will be developed during Stage 1.</p>	Planning Level TM No. 3
	Fiber-Reinforced Precast Concrete Tunnel Segments	ACI 544.7R-16 Report on Design and Construction of Fiber-Reinforced Precast Concrete Tunnel Segments	
	Groundwater Level	<p>For temporary structures such as tunnel and shaft initial supports, the design groundwater level will be determined based on readings in the piezometers.</p> <p>For permanent structures, including tunnel final lining and RLS shaft, the design groundwater level will be determined based on the maximum readings in the piezometers or 100-year water level in the adjacent surface water bodies, whichever is greater.</p> <p>The design groundwater levels for each structure shall be defined during Stage 1.</p>	Planning Level TM Nos. 3 and 4

Attachment A
Base Design Criteria

Category	Subject	Criteria and Standards	Related Section or Tech Memo
Seismic Design		For the SVCW Gravity Pipeline, a Risk Category IV shall be used by the PDB in the design process. The seismic hazards for the system, the design seismic event, and design ground subsurface and surface motion parameters shall be established during Stage 1 to characterize the design event.	Planning Level TM No. 3
Tunnel Design	Leakage Allowance (DRAFT)	To be determined by SVCW during Stage 1 (likely 7 to 15 gallons per minute over the length of the tunnel).	
Shaft Connections	Shaft Connection to Tunnel	Flexibility shall be provided at tunnel/shaft interface to allow differential movement. Magnitude of differential movement shall be evaluated by the PDB during Stage 1.	Planning Level TM No. 5
Instrumentation and Monitoring	Surface Settlement Monitoring Along Tunnel	At a minimum to include subsurface monitoring of settlement near shafts, near sensitive utilities, near sensitive structures. To be determined by the PDB and approved by SVCW during Stage 1.	Planning Level TM Nos. 3 and 4
	Alignment Accuracy (DRAFT)	Tolerance from centerline alignment to be determined by SVCW during Stage 1 (likely a circle target with a diameter of a few inches).	
	Allowable Settlement of Adjacent Utilities (e.g. exist sewer force main at Pulgas Creek) (DRAFT)	Settlement shall be negligible along tunnel especially near sensitive major utilities. Definition of negligible to be determined by SVCW during Stage 1 (likely a few tenths of an inch).	
	Surface Settlement Monitoring at Shaft Excavation (DRAFT)	Settlement shall be negligible near shafts. Definition of negligible to be determined by SVCW during Stage 1 (likely a few tenths of an inch).	
Design Life		Minimum 100 years with periodic maintenance to be demonstrated during Stage 1.	Planning Level TM No. 3
Corrosion Control	Corrosion Control Measures Young Bay Mud and Upper Layer Sediment	Minimum 100 year service life with periodic maintenance to be demonstrated during Stage 1.	Planning Level TM No. 3

Attachment A
Base Design Criteria

Category	Subject	Criteria and Standards	Related Section or Tech Memo
Appurtenant Structures	Sewer Accessway (Airport Access Shaft)	Accessway construction: corrosion resistant materials such as fiberglass, HDPE, polymer concrete and corrosion resistant and biocide infused concrete No ladder rungs inside accessway Lower cover: Bolted 36" flange right above interceptor (minimize air space) Surface hatch: Sized to allow cleaning contractor access. Locks to prevent unauthorized access.	Planning Level TM Nos 4 & 5
	Access at each Shaft	Size access to accommodate future cleaning, inspection, and rehabilitation equipment.	
	San Carlos Drop Structure	Vortex Drop Structure in shaft with short tunnel connection to main tunnel	
	Bair Island Inlet Structure	Provide a smooth hydraulic transition to minimize off gassing turbulence in either an open channel or closed conduit configuration. Consider an HDPE OGEE pipe ramp to accessway/junction structure.	
Surface Restoration	Shaft Sites	Comply with property owner and regulatory requirements. Generally restore to pre-existing conditions.	Planning Level TM No. 4
	Preconstruction surveys	Provide preconstruction surveys, photos, and video.	
	Haul Routes	Repair damaged pavement, curb, gutter and sidewalk to local jurisdiction standards.	
Security Provisions	During Construction	At minimum, shaft construction area shall be access controlled by perimeter chain-link fence. Inactive shafts shall be secured using full chain-link perimeter fence with cover on top or steel plate covering the shaft.	Planning Level TM No. 5
	During Service	Access points shall have a locking device, such as a water tight bolt-down manhole lid, access hatch with locks etc., to prevent unauthorized entry.	

Attachment A

Base Design Criteria

Design Flows and Capacity for SVCW Conveyance System Projects

Updated January 25, 2017

Assumes Both Diurnal and Wet Weather Storage in the Gravity Pipeline

Team	Current			Projected			
	MDWF Oct/2015 (hourly) (6)	PDWF Oct/2015 (hourly) (2)	ADWF Oct/2015 (daily)	ADWF 2040 (daily)	PWWF 10yr, 1 stm, 2040 (hourly)	PDWF 2040 (daily)	PDWF 2040 (hourly)
	mgd	mgd	mgd	mgd	mgd	mgd	mgd
MPPS	0.2	10.2	3.7	4.6	22		10
RCPS-w/o RWSPS (except for PDWF 2040 (hourly))	0.9	11.1	4.5	8	38		14.5(3)
RCPS w/ MPPS PWWF					60		
San Carlos	0.6	3.7	1.3	2.9	26.6		5.8
Belmont	0.3	3.2	1.4	1.8	16.3		3.6
Total of incoming flows w/o RWS			6.4	9.3		22	
Tunnel and Gravity Pipeline	2.4	20.5	10.9	17.3	102.9(5)	22	33.9(3)
RLS	2.4	20.5	10.9	17.3	75	22	33.9(3)
Headworks (1)	2.7	22.5	11.8	17.9	80(4)	23	33.9(3)
Interconnector Pipe (1)	2.7	22.5	11.8	17.9	80	23	33.9(3)
Overflow to Drying Beds							

Flow rates subject to change

Minimum Dry Weather Flow (MDWF), Average Dry Weather Flow (ADWF, and Peak Dry Weather Flow (PDWF) for October 2015 based on flow data provided by SVCW SCADA output from each pump station.

ADWF 2040 flow rates from Table 5-9 of TM 1 for Final Plant Capacity Study (Brown and Caldwell, 2013)

WWTP capacity flow rates provided by SVCW

PDWF 2040 (hourly) flow rates from Member Agency Master Plans and CSMP

PDWF 2040 (daily) flow rates are from Table 5-9 of TM1 for Final Plant Capacity Study

Average Annual Flow: _____ mgd Current and _____ mgd Projected to 2040

PWWF

Tunnel: PWWF numbers are based on PWWF from member agencies with a time of concentration at the entrance point into the Conveyance System, either tunnel or pump station connection.

Redwood Shores PWWF = 5 mgd

PWWF RLS = Plant Capacity - Redwood Shores PWWF

PWWF Headworks and Interconnector Pipe = Plant Capacity

(1) Headworks and Interconnector Pipeline flow rates includes flow from Redwood Shores, but do **not** include any WWTP process recycle or storm water flows.

(2) Individual PDWF (hour) rate for Member Agencies occurred on different days in October and do NOT equal the PDWF (hour) rate at the WWTP. The PDWF (hour) for the WWTP was the single highest hour (clock time) in the month of Oct/2015.

(3) Includes Redwood Shores flows

(4) Includes addition of 5 mgd PWWF from Redwood Shores

(5) PWWF 2040 is the worst case timing where the storm event peak flow reaches the entry point into the Conveyance System at the same time. The Master Plans and CSMP show approximately a one hour difference in the time of concentration within each Member Agency's collection system from

(6) MDWF Oct/2015 (hour) occurred on different days in October and do NOT equal the MDWF (hour) rate at the WWTP.

Attachment B
Draft Design-Build Agreement for Gravity Pipeline Project



GRAVITY PIPELINE PROJECT DESIGN/BUILD AGREEMENT

DESIGN BUILD AGREEMENT

Between Owner and Design-Builder

THIS AGREEMENT ("Agreement") is made as of October __, 2017 ("Effective Date") between Silicon Valley Clean Water ("Owner"), a Joint Powers Authority comprised of the City of Redwood City, West Bay Sanitary District, the City of San Carlos, and the City of Belmont, located at 1400 Radio Road, Redwood City, CA 94065 and [insert name of design build entity] ("Design-Builder") located at [insert address] for design, construction, testing and commissioning ("Work") of the Gravity Pipeline Project ("Project") in accordance with the Contract Documents.

By executing this Agreement, each of the Signatories represents that he or she has the authority to bind the Party on whose behalf his or her execution is made.

Owner: Silicon Valley Clean Water 1400 Radio Road Redwood City, CA 94054 By: _____ (Signature) Name: Daniel T. Child, Manager Telephone No. 650-591-7121 Facsimile No. 650-591-7122 Email. dchild@svcw.org	Design-Builder: [insert name of entity] [insert street address] [insert city, state, zip] By: _____ (Signature) Name: [insert name, title] Telephone No: Facsimile No. Email. CA License No.:
---	--

THE PARTIES AGREE TO THE FOLLOWING TERMS AND CONDITIONS

KEY BUSINESS TERMS SHEET

Owner Representative	Teresa Herrera, Assistant Manager/ Chief Engineer (650) 832-6220 therrera@svcw.org
Owner Project Manager	Bruce Burnworth, Senior Engineer 650-339-1174 bburnworth@svcw.org
Design-Builder's Representative	(Name) (Direct Phone) (Cell Phone) (Email)
Design-Builder Engineer	(Name) (Direct Phone) (Cell Phone) (Email)
Design-Builder's Superintendent	(Name) (Direct Phone) (Cell Phone) (Email)
Other Personnel	See Key Personnel in Exhibit 5.B
Compensation	
Stage 1 Lump Sum	\$_____
Stage 2 Direct Cost of the Work	\$_____
Stage 2 Overhead and Profit percentage	
Stage 2 Payment & Performance Bond	
Stage 2 Construction Contingency percentage	
PROJECT GMP OR LUMP SUM	\$_____
Schedule:	
Stage 1 Completion Date	
Substantial Completion Date	(Date)
Final Completion Date	(Date)
Liquidated Damages:	
Failure to Achieve Substantial Completion Date	\$___/calendar day

TABLE OF EXHIBITS

All Exhibits set forth below are incorporated into the Agreement whether attached or included in the Project Repository. Some exhibits will be developed over the course of Stage 1 Work and will be incorporated into the exhibits as completed.

Exhibit 1	Supplemental Conditions	Attached
Exhibit 2	Base Design Criteria	Attached
Exhibit 3	Scope of Work	Attached
Exhibit 4	Compensation	
Exhibit 4A	Stage 1 Lump Sum	Attached
Exhibit 4B	Overhead and Profit Percentage	Attached
Exhibit 4C	Hourly Billable Labor Rates for All Personnel	Attached
Exhibit 4D	Design-Builder Owned Equipment Rates	Attached
Exhibit 4E	GMP Amendment Form	Attached
Exhibit 4F	Schedule of Values	By Amendment
Exhibit 5	Personnel	
Exhibit 5A	Staffing Plan	Attached
Exhibit 5B	Key Personnel	Attached
Exhibit 6	Schedule and Site Logistics Plan	
Exhibit 6A	Project Baseline Schedule	By Amendment
Exhibit 6B	Site Logistics Plan	By Amendment
Exhibit 7	Design Submissions	
Exhibit 7A	Building Information Model	
Exhibit 7B	Construction Documents	
Exhibit 8	Insurance and Bonding	
Exhibit 8A	Owner Controlled Insurance Program	Attached
Exhibit 8B	Design-Builder's Insurance Requirements	Attached
Exhibit 8C	Payment Bond Form	Attached
Exhibit 8D	Performance Bond Form	Attached
Exhibit 9	Clean Water State Revolving Fund Requirements	Attached
Exhibit 10	WIFIA Requirements	
Exhibit 11	Design-Builder's Proposal	

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DESIGN/BUILD AGREEMENT

This Design/Build Agreement (“**Agreement**”) is executed as of ??? (“**Effective Date**”) by and between the “**Owner**” and “**Design-Builder**” for design and construction of the “**Project**.” The Owner and Design-Builder may collectively be referred to as “**the Parties**.”

Owner:

Silicon Valley Clean Water
1400 Radio Road
Redwood City, CA 94065

Design-Builder:

???

Project:

Gravity Pipeline Project, CIP #6008

The Owner and Design-Builder agree as set forth below:

1. GENERAL

1.1 Definitions. All defined terms will be capitalized throughout the Agreement. The definitions for this Agreement appear in alphabetical order in Section 1 of the “**Supplemental Conditions**” to the Agreement and may also be set forth in quotations the first time the term is used for convenience.

1.2 Project Description. The Project involves the design and construction of a new gravity pipeline, estimated to be 3.3 miles in length, and approximately 15-feet in outside diameter, extending from Inner Bair Island south of San Carlos Airport to Owner's Wastewater Treatment Plant in Redwood City, CA.

1.3 Project Delivery. The Project will be delivered using a design-build delivery method per California Public Contract Code section 22160, et seq..

2. THE DESIGN-BUILD AND RELATIONSHIP OF THE PARTIES

2.1 Design-Build Team. The Design-Builder is ultimately responsible to the Owner for design and construction of the Project. The Design-Build Team includes all team members providing services and to the Design-Builder, and is comprised of the “**General Contractor**,” the “**Design Professionals**” and “**Design-Build Subcontractors**” designated below. All “**Design Services**” will be performed by the Engineer of Record and/or other design consultants (collectively, “**Design Professionals**”), with assistance from “**Design-Build Subcontractors**” providing design-assist services. The Owner will be a third party beneficiary to all design service agreements and/or design-build subcontracts. In order to integrate the Facilities with the Owner's existing SCADA system, the Design-Builder will hire Cascade Integration Development as part of the Design-Build Team for

automation integration services. The Design-Build Team is currently comprised of the entities identified in Exhibit 5B.

2.2 Licensing. Design-Builder must be a California state licensed general contractor with an Engineering "A" license. Consultants must all possess the appropriate California state design licenses for their particular discipline. Subcontractors must all possess the appropriate California state specialty license for their particular trade. Nothing in this Agreement will require a Design Build Team Member, or any of their respective Consultants or Subcontractors, to perform any portion of the Work outside of their respective licenses or contrary to Applicable Law.

2.3 Good Faith. The Design-Builder will perform all Work under this Agreement in compliance with each of the following performance standards: (i) use its best skill and judgment in furthering the interests of the Owner and the Project; (ii) furnish effective and efficient design, construction administration and supervision; (iii) furnish at all times an adequate supply of **"Skilled Labor"** and materials; and (iv) perform the Work in the most expeditious and economical manner consistent with the Design Criteria and the Owner's best interests.

2.4 Standard of Care. The Design-Builder warrants that it possesses the design and construction licenses and expertise required for this Project under Section 2.2 and will use the same degree of care and skill customarily used by California state licensed professionals performing similar services for wastewater and tunneling construction projects in the state of California.

2.5 Collaboration. Owner and Design-Builder commit at all times to cooperate fully with each other, and proceed on the basis of trust and good faith to permit each party to realize the benefits afforded under this Agreement. Design-Builder and its Design Professionals, Subcontractors, suppliers, and equipment vendors will perform their respective portions of the Work using collaborative tools and methods. The Design-Build Team will actively participate and collaborate with Owner to achieve best value, optimal design, increased labor efficiency, and elimination of waste and re-work. The Design-Builder will collaborate with Owner to develop the design within the Project Budget, and to ensure that the design satisfies all Design Criteria. Owner is amenable to participating in a formal Partnering process with Design-Builder to maximize collaboration, as addressed in more detail in Section 15 of the Supplemental Conditions. Design-Builder is encouraged to utilize Building Information Modeling to maximize collaboration with Owner.

2.6 Communications. All communications from the Design-Builder shall be directed to Owner via the Owner's Representative, Teresa Herrera, with copies to the Owner's Project Manager, Bruce Burnworth, and other recipients as named during the course of the Project.

2.7 Relationship of the Parties. The Design-Builder's relationship with the Owner is that of an independent contractor whose involvement in the Project is to act solely in the capacity of a California licensed design professional and general contractor and not as an agent, fiduciary, partner, member of, subsidiary of, or otherwise affiliated with the Owner.

2.8 Responsibility Design-Builder acknowledges and agrees that it is solely responsible to Owner for the sufficiency, quality, adequacy and completeness of the Work, and that Design-Builder is responsible for any acts, errors, or omissions of the Design-Builder's principals, employees, agents, and/or any other parties either directly or indirectly in privity of contract with Design-Builder including, but not limited to, the Engineer of Record and other Design Professionals, Subcontractors, suppliers, equipment vendors, and their agents and employees, and other persons performing any portion of the Work on behalf of Design-Builder. **CONTRACT DOCUMENTS**

3.1 Contract Documents. The “**Contract Documents**” consist of this Agreement, the Supplemental Conditions, and all other Exhibits attached to this Agreement, all subsequent modifications through amendments and change orders executed by Owner, the Construction Documents to be developed by the Design-Builder.

3.2 Interpretation and Intent. The intent of the Contract Documents is to include all items necessary for proper completion of all Work within the “**Contract Time**” and within the “**Contract Price**.” The Contract Documents are intended to be complementary and what is required by any one of them is as binding as if called for by all of them.

3.3 Inconsistencies. In the event of inconsistencies between requirements contained in different components of the Contract Documents, the order of precedence of the Contract Documents shall be as follows to resolve the conflicts, listed in order of most important document first:

- 3.3.1** Amendments of the Design-Build Agreement;
- 3.3.2** Change Orders approved by Owner;
- 3.3.3** The Design-Build Agreement executed between Owner and Design-Builder (“Agreement”), not including Exhibits;
- 3.3.4** The Scope of Work set forth in Exhibit 3 to the Agreement;
- 3.3.5** Design-Builder Insurance Requirements included in Exhibit 8B to the Agreement;
- 3.3.6** Performance and Payment Bonds included in Exhibits 8C and 8D to the Agreement;
- 3.3.7** The Supplemental Conditions included in Exhibit 1 to the Agreement;
- 3.3.8** The Basis of Design Report to be developed by the Design-Builder during Stage 1.
- 3.3.9** The Base Design Criteria included in Exhibit 2 to the Agreement;
- 3.3.10** Grant Funding Requirements (CWSRF and WIFIA) included in Exhibits 9 and 10 to the Agreement;
- 3.3.11** Construction Documents developed by Design-Builder and accepted by Owner;
- 3.3.12** The Building Information Model developed by the Design-Builder and accepted by Owner;
- 3.3.13** Proposal submitted by Design-Builder.
- 3.3.14** All other Exhibits to the Design-Build Agreement and all other Contract Documents

4. OWNER'S OBLIGATIONS

4.1 Information and Documents. The Owner will make various Background Documents related to the Project available to the Design-Builder, including but not limited to any surveys and other information that describe the Project site including any geotechnical information (collectively the "Geotechnical Data Report"), environmental impact reports, and hazardous material surveys, as well as schedule requirements, budget constraints and other criteria, and procurement schedules. The Background Documents are provided for information only and will not be included as part of the Contract Documents. As the Design-Builder determines is necessary, Design-Builder must perform its own independent site investigation in accordance with Section 5.4 in order to develop the Geotechnical Baseline Report.

4.2 Base Design Criteria. The "Base Design Criteria," included in **Exhibit 2** to this Agreement, were developed by the Owner to provide an outline of the Project requirements and scope. The Base Design Criteria provide a basis for the Design-Builder's Contract Price, Project Baseline Schedule and design work. The Design-Builder is expected to expand on, elaborate, and enhance the Base Design Criteria in collaboration with Owner during Stage1 to create a complete set of Design Criteria (Basis of Design Report) to guide the remainder of the Work.

4.2.1 Background Documents. Owner has made a number of additional materials available for the Design-Builder's information as Background Documents. These Background Documents may be considered, in conjunction with Design-Builder's own investigation of the Project site, in the development of the Design Criteria, but are not part of the Contract Documents.

4.3 Ownership of Facilities. The Owner will own the Facilities, and control easements on which certain Facilities are to be built, as defined in the EIR. Owner will provide Design-Builder with access to the Work site and easements for the purpose of fulfilling its obligations (design and construction) under this Agreement.

4.4 Governmental Approvals. The Owner has obtained or will be responsible for obtaining certain environmental permits and approvals, including : California Environmental Quality Approval, BCDC permit, COE permit, BAAQMD permit, and CA F&WS permit, for the alignment as shown in the EIR. Owner will also obtain all necessary rights of way, easements and property access agreements for the alignment as shown in the EIR.

4.5 Owner's Representative. SVCW's interests on the Project will be represented by the Owner's Representative ("OR"), Teresa Herrera. The OR is authorized to act on the Owner's behalf with respect to the daily operations of the Project, or may delegate authority to another SVCW representative, such as the Project Manager or Construction Manager. For simplicity, where this Agreement refers to the Owner, Design-Builder may assume that the OR is the appropriate point of contact. Where necessary, the OR will elevate issues to the SVCW Commission or to appropriate executives.

4.6 Tests and Inspections. The Design Builder will pay for all testing and inspection including the structural, mechanical, chemical, air and water pollution tests, tests for hazardous materials, and other laboratory and environmental tests, inspections and reports required by law or the Contract Documents. Owner reserves the right to conduct its own additional tests at Owner's expense, and Design-Builder shall allow access to all Work and Project documents for such additional tests.

4.7 Stop Payment Notice. The Owner will comply with all stop payment notices submitted in compliance with applicable laws.

4.8 Separate Contracts. The Owner reserves the right to perform construction and operations related to the Project with the Owner's own forces, and to award contracts in connection with the Project that are not part of the Design-Builder's responsibilities under this Agreement. The Design-Builder will coordinate its Work with Owner to allow for any other separate contracts to be performed, and to minimize interference. Specifically, Design-Builder will participate in daily coordination meetings to allow for Owner's operation and maintenance activities, including but not limited to SCPS activities. When performing construction or operations related to the Project, the Owner agrees that its separate contractors will be subject to the same obligations as the Design-Builder with respect to insurance, indemnification, safety, protection, inspections and non-conforming work. The Owner will remain responsible to the Design-Builder for any delays to the Contract Time or cost impacts resulting from work performed by its separate contractors. Any cost and/or time impacts will be addressed through the Change Order process set forth in Section 9.

4.9 Timeliness. In order to avoid any impacts to the Contract Time, information or services under the Owner's control will be furnished within the timeframes set forth in the Contract Documents.

4.10 Owner Direct Payments. In case of a material breach by the Design-Builder, the Owner hereby retains the right to make direct payment to Subcontractors and Design Professionals, less retention, and to deduct the amounts from future payment requests from Design-Builder.

5. DESIGN-BUILDER'S OBLIGATIONS

5.1 Progressive Design-Build Services. Design-Builder will provide progressive design-build services over two stages of the Project. Stage 1 will require all preconstruction and design services up to sixty percent completion of design. Stage 2 will proceed upon both parties agreeing on a GMP or Lump Sum for the completion of the design, and for all required construction work. This Section will set forth the Design-Builder's general obligations under the Agreement, which are described in further detail in the Scope of Work included in **Exhibit 3**.

5.2 Stage 1 Services and Negotiation of Stage 2 Amendment. Stage 1 services will include preconstruction services during which the Design-Builder will work collaboratively with Owner to validate existing design concepts, propose alternatives, gather additional information, evaluate construction phasing alternatives, develop a Basis of Design Report, submit a preliminary set of 30% Construction Documents including a schedule and Open Book Cost Estimate for the Gravity Pipeline Project for review and comment, submit a set of 60% Construction Documents including schedule and Open Book Cost Estimate, followed by submission of a GMP or lump sum proposal for Stage 2 Services, all as described in more detail in the Scope of Work detailed in **Exhibit 3**.

5.3 Stage 2 Amendment. At the end of Stage 1, the Design-Builder will submit a proposed Stage 2 Amendment to Owner that, if accepted by Owner, would govern Stage 2 work. A template for the Stage 2 Amendment is included in **Exhibit 4B** to this Agreement. The Stage 2 Amendment shall be comprised of the following documents: 1) the Stage 2 Amendment form with all line items filled-out, including a Price for completion of all remaining design services and all construction services required to complete the Project; 2) a Basis of Design Report; 3) 60% design documents, 4) Stage 2 project schedule; 5) "open book" cost model detailing Design Builder's labor, materials, equipment, subcontractor, overhead, and profit. The cost model shall include all material and subcontractor price quote documentation; and 6) all documents required as part of the Project

Manual for Stage 2 Work, including a number of forms and plans (Site Specific Safety Plan, Traffic Control Plan, Quality Control Plan, various mitigation plans, Stage 2 GP/FOP Coordination Plan) to be identified by Owner and developed by Design-Builder during the course of Stage 1.

Owner shall review the information submitted in order to determine if the Stage 2 Amendment provides Owner with the best value for completing Stage 2 of the project. If Owner finds the Stage 2 Amendment to be acceptable, Owner will authorize the execution of a Stage 2 Amendment to the Agreement and issue a Notice to Proceed with Stage 2 services. Owner reserves the right to take any of the following actions in response to the proposed Stage 2 Amendment submitted by Design-Builder:

Negotiate revisions to any of the documents submitted, including the GMP or Lump Sum total, specific components of the GMP or Lump Sum, revisions to the Basis of Design Report, revisions to the 60% design, revisions to the project schedule.

Reject the proposed Stage 2 Amendment, and require the Design-Builder to complete the design to 100% utilizing existing hourly rates, which will be used for an award to a separate contractor for construction of the Project.

Reject the proposed Stage 2 Amendment and require Design-Builder's Engineer of Record to contract with Owner directly to complete the design to 100%.

Reject the proposed Stage 2 Amendment, terminate the Agreement with Design-Builder, and take possession of all design documents and related work product developed by Design-Builder.

5.4 Stage 2 Services. Upon the issuance of a Notice to Proceed with Stage 2 services, Design-Builder will perform all remaining design services to bring the design to 100% complete, and all construction services required for completion of all components of the Gravity Pipeline Project. Design-Builder will provide all labor, materials, equipment, tools and appurtenances necessary to complete the construction work described in, or **reasonably** inferable from, the Contract Documents. Design-Builder will complete all required start-up, commissioning and performance testing services upon completion of construction. Stage 2 Services will also include each of the following.

5.4.1 Unless otherwise provided in the Contract Documents to be the responsibility of Owner or a separate contractor, Design-Builder shall provide through itself or Subcontractors the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities and other temporary facilities to permit Design-Builder to complete construction of the Project consistent with the Contract Documents.

5.4.2 Design-Builder shall perform all construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents. Design-Builder shall at all times exercise complete and exclusive control over the means, methods, sequences and techniques of construction.

5.4.3 Design-Builder shall employ only Subcontractors who are duly licensed and qualified to perform the Work consistent with the Contract Documents. Owner may reasonably object to Design-Builder's selection of any Subcontractor.

5.4.4 Design-Builder assumes responsibility to Owner for the proper performance of the Work of Subcontractors and any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or

contractual relationship between Owner and any Subcontractor or Sub-Subcontractor, including but not limited to any third-party beneficiary rights.

5.4.5 Design-Builder shall coordinate the activities of all Subcontractors. If Owner performs other work on the Project or at the Site with separate contractors under Owner's control, Design-Builder agrees to reasonably cooperate and coordinate its activities with those of such separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.

5.4.6 Design-Builder shall meet all environmental and permit mitigation requirements for the Project during Stage 2.

5.4.7 Design-Builder shall keep the Site reasonably free from debris, trash and construction waste to permit Design-Builder to perform its construction services efficiently, safely and without interfering with the use of adjacent property. Upon Substantial Completion of the Work, or a portion of the Work, Design-Builder shall remove all debris, trash, construction waste, materials, equipment, machinery and tools arising from the Work or applicable portions thereof to permit Owner to occupy the Project or a portion of the Project for its intended use. Upon Substantial Completion of the Work, Design-Builder shall return the Premises to its pre-existing condition or better, based on a preconstruction survey to be performed by Design-Builder.

5.5 Site Investigations. By executing this Agreement, the Design-Builder represents that it has visited the Project premises, has reviewed and analyzed all Background Documents made available by Owner, including the Geotechnical Data Report summarizing the geotechnical data collected to date, and is familiar with the local conditions under which the Work is to be performed. During Stage 1, the Design-Builder will conduct further investigation of existing conditions as necessary in order to complete the Geotechnical Baseline Report ("GBR"), which shall serve as the Parties' understanding of the site conditions for construction during Stage 2 of the Project. The GBR will be developed in coordination with the Owner, and both Design-Builder and Owner must approve the GBR before commencement of construction work during Stage 2.

5.6 Design Services. With regard to design services, the Design-Builder will, consistent with applicable state licensing laws, provide through qualified, licensed design professionals employed by Design-Builder, or procured from qualified, independent licensed Design Professionals, the necessary design services, including architectural, engineering and other design professional services, for the preparation of the required drawings, specifications and other design submittals to permit Design-Builder to complete the Work consistent with Basis of Design Report and all requirements in the Contract Documents.

5.7 Coordination with Front of Plant Design-Builder. The Design-Builder will coordinate its Work with the FOP Project Design-Builder, and any other Owner projects in the vicinity of the Project's premises. Design-Builder will coordinate with the Owner and the Design-Builder for the FOP Project to provide the configuration, dimensions and scheduling of the RLS Shaft related activities, as well as the schedule for construction of the RLS Shaft and use of the shaft for removal of the TBM. Design-Builder will explore with the Owner alternative TBM launch and shaft approaches, and recommend TBM launch and receiving shaft locations, dimensions and construction approaches. Design-Builder will coordinate with Owner and FOP Design-Builder regarding the commissioning and performance testing of all Gravity Pipeline and FOP Facilities.

Within 60 days of the issuance of the Notice to Proceed for Stage 1 of the Project, Design-Builder will submit a GP/FOP Coordination Plan providing both an approach and schedule to coordinating design and construction work between the two projects for review and comment by the Owner. Within 60 days of issuance of the Notice to Proceed for the FOP Project, Design-Builder will meet with the FOP Design-Builder to coordinate on a revised and updated GP/FOP Coordination Plan and submit it for the Owner's review and comment. Design-Builder shall also submit a Stage 2 GP/FOP Coordination Plan in conjunction with its proposed Stage 2 GMP Amendment.

5.8 Design Submissions. Design-Builder and Owner shall, consistent with any applicable provision of the Contract Documents, agree upon any interim design submissions that Owner may wish to review, which interim design submissions may include design criteria, drawings, diagrams and specifications setting forth the Project requirements. Interim design submissions shall be consistent with the Base Design Criteria and the Basis of Design Report, as they may have been augmented or revised through the design process. Requirements for Design Submissions are set forth in more detail in the Scope of Work included in **Exhibit 3**.

5.9 Construction Documents. Design-Builder shall submit to Owner Construction Documents reflecting the completed 100% design and setting forth in detail drawings and specifications describing the requirements for construction of the Work. The Construction Documents shall be consistent with the Basis of Design Report, as well as approved interim design submissions, as such submissions may have been modified in a design review meeting and recorded in the meetings minutes. The parties shall have a design review meeting to discuss, and Owner shall review and approve, the Construction Documents in accordance with the procedures set forth in the Scope of Work in **Exhibit 3**.

5.10 Responsibility for Design. The Design-Builder acknowledges and agrees that it is solely responsible to the Owner for the sufficiency, quality, adequacy and completeness of the design work completed, whether during Stage 1 or Stage 2. Design-Builder is responsible for any acts, errors, or omissions of the Design-Builder, its Design Professionals, its Subcontractors, employees, agents, and/or any other parties either directly or indirectly in privity of contract with Design-Builder including, but not limited to, the “**Design-Build Team**” identified in Section 2.1, second tier-subcontractors, and vendors who are performing any portion of the Work. The Design-Builder's design must meet the minimum design requirements as defined by the Base Design Criteria and as refined collaboratively during Stage 1 Preconstruction, and must be completed in accordance with the Basis of Design Report and all other design requirements included in the agreement. The Owner will review the design at specific design development milestones for consistency and compliance with such design requirements.

5.11 Applicable Laws.

5.11.1 Statutory Authority. The Owner is awarding this Project pursuant to the design-build authority provided under California Public Contract Code Sections 22160-22169. The Design-Builder acknowledges that it has reviewed this statutory authority, is familiar with all requirements, and will comply with applicable requirements and duties.

5.11.2 Compliance with All Applicable Laws. The Design-Builder agrees to comply with all Federal, State, Municipal and local laws, ordinances, rules, regulations, building codes and standards, orders, notices and requirements applicable to proper design and construction of this Project.

5.12 Staffing Plan and Key Personnel. The Design-Builder agrees that it will staff this Project in accordance with the staffing plan included in **Exhibit 5A**. The Staffing Plan will include a staff-level organizational chart indicating hierarchy and reporting responsibilities, as well as all Key Personnel.

5.12.1 Key Personnel. The Design-Builder will identify all “**Key Personnel**” in **Exhibit 5B** and will not remove any of its Key Personnel from this Project without the express written consent of the Owner, except for death, disability or departure of person from employment. The Owner's Representative will be able to request the removal of any person employed by the Design-Builder whom it believes is incompetent, improper or a hindrance to the design-build process. If any Design-Builder personnel become unavailable to work on the Project, or if the Owner requests that an employee be removed, the Design-Builder will propose a replacement person within 10 business days for approval by the Owner. The recommended replacement person will have similar or better qualifications and experience, and must be approved in writing by the Owner.

Additional Staffing and Key Personnel requirements are set forth in the Scope of Work in **Exhibit 3**.

5.13 Safety. The Design-Builder is the “Controlling Employer” as defined by Cal/OSHA and will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work and in accordance with the Design-Builder's Health and Safety Program.

5.14 Project Baseline Schedule. Within 90 days from issuance of the Notice to Proceed for the Project, the Design-Builder must submit a revised Project Baseline Schedule, reflecting the Project as then defined, for review and approval by Owner which will be attached as **Exhibit 6A**. During the remainder of Stage 1 this Project Baseline Schedule will be regularly updated (at least monthly) and refined as project development and design proceeds. Each version of the schedule coordinates and integrates the progress of Design Services with milestone dates for design development and Construction Documents, procurement of long lead items and Subcontracts, and construction of major components of the Project. The Project Baseline Schedule shall include all major components of the Work and the Owner's occupancy requirements projecting milestones for each of the following:

- Preparation of the Basis of Design Report
- Dates of coordination meetings with FOP Design-Builder regarding the RLS shaft
- Proposed phasing of Stage 1 completion and Stage 2 Amendments
- Submission of proposed Stage 2 Amendment, with 60% Construction Documents
- Completion of all Stage 1 Work
- Request for Issuance of the Notice to Proceed with Stage 2
- Completion of 100% Construction Documents
- Completion of the construction of RLS shaft
- Retrieval date for TBM

- "Substantial Completion" of the Project
- "Final Completion" of the Project

The Project Baseline Schedule must be prepared utilizing P6 scheduling software, a robust project scheduling system consistent with Owner's scheduling practices. The schedule must be broken down by activity and duration highlighting the critical path. The Stage 2 Project Baseline Schedule may be adjusted through Change Order under Section 9 for permitted delays as defined in Section 8. The Project owns all float in the Stage 2 Project Baseline Schedule and monthly updates. Therefore, there will not be any adjustments to the Contract Time until all Project float is exhausted and the critical path is impacted.

5.15 Governmental Approvals. The Design-Builder will be responsible for obtaining all permits and approvals not expressly identified as Owner responsibility, including but not limited to the following permits, licenses, and approvals necessary for the construction of the Facilities: encroachment permits, stormwater discharge permits, construction dewatering NPDES permits, Cal OSHA Mining and Tunneling Unit Underground Classification Requirements. The Design-Builder will assume the risk of delays caused by the non-issuance of any of these approvals, as well as the imposition of terms and conditions that are more costly than assumed for the issuance of, any permit, license or approval listed above. The Design-Builder may also be required to assist the Owner in obtaining permits and approvals that are the Owner's responsibility (not listed above), including the preparation of permits application materials, coordination with the regulatory agencies, and other required assistance.

5.16 Taxes and Fees. The Design-Builder will pay all sales, consumer, use, gross receipts, and other similar taxes legally enacted at the time of commencement of the Work.

5.17 Consultants and Laboratories. The Design-Builder will make recommendations to the Owner regarding selecting, retaining and coordinating any additional professional services, special consultants and testing laboratories required for the Project.

5.18 Construction Administration. Should the Owner elect to contract with Design-Builder for Stage 2, the following terms and conditions will apply:

5.18.1 Preliminary Notices. Within 5 business day's receipt, Design-Builder will forward to the Owner all 20-Day Preliminary Notices (Civil Code sections 9300, 9500 and 9560) served on it by any person or entity entitled to assert a payment bond or stop payment notice claim. Design-Builder will maintain a written record of all 20-Day Preliminary Notices received by it including the manner of receipt, date of receipt, and name and address of person or entity serving the 20-Day Preliminary Notice. This written record will be turned over to the Owner at Project Close-out.

5.18.2 Supervision. The Design-Builder will supervise and direct the Work using its best skill and judgment. The Design-Builder will provide a qualified superintendent at the Project site to properly supervise all of Design-Builder's employees, Subcontractors and their agents and employees, and other persons performing construction work and to ensure that the construction work is carried out in strict accordance with the Contract Documents. Design-Builder's superintendent may not be changed without Owner's written consent.

5.18.2.1 The Design-Builder's superintendent is: ??? Design-Builder's backup Superintendent is: ???

5.18.3 Discipline. The Design-Builder will enforce strict discipline and good order at all times among Design-Builder's employees, Design Professionals and Subcontractors and will not employ or contract with any unfit or unskilled person(s) or entities on this Project. The Design-Builder and its Design-Professionals and Subcontractors will comply with all Owner policies, standards, and procedures throughout the duration of this Project.

5.18.4 Construction Coordination. Before starting each portion of the construction work, the Design-Builder will: (i) review and compare the various Contract Documents relative to that portion of the construction work, as well as the information furnished by the Owner, Design Professionals and Subcontractors that may affect proper installation of the work; (ii) field measure existing conditions related to that portion of the work; and (iii) observe any conditions at the site directly affecting that portion of the work.

5.18.5 Field Measurements. The Design-Builder will take field measurements to ensure proper matching and fitting of new construction with existing conditions at the Project site.

5.18.6 Submittals. The Design-Builder and its Subcontractors shall provide timely submittal of all "**Shop Drawings**," "**Product Data**," "**Samples**" and similar submittals (collectively referred to as "**Submittals**") required by the Contract Documents, to the Engineer of Record for review and approval. After approval by the Engineer of Record, all Submittals will also be provided to the Owner for Owner's information. All Submittals will be submitted in a sequence that avoids delays in the Project Schedule. Design Builder will not submit any Submittal that is merely a tracing or copy of any of the Construction Documents. Each Submittal will be prepared by the Design Builder and/or its Subcontractors or suppliers and will be submitted according to the Project specifications. No construction work will be performed without approval by the Design-Builder, as required. Regardless of the Submittal process, the Design-Builder remains responsible to the Owner for proper design and construction in compliance with all requirements set forth in this Agreement.

5.18.6.1 Design-Build Subcontractors. All Submittals prepared by Design-Builder and its Subcontractors shall be reviewed and approved by the Design-Builder's Engineer of Record who will remain responsible to the Design-Builder and Owner for the design.

5.18.7 Coordination of MEP. Mechanical, electrical, plumbing, fire protection and fire and life safety work will be coordinated through the BIM, as appropriate, to avoid obstructions, conflicts, keep openings and other passageways clear, overcome interference with structural, framing, and equipment conditions, and coordinate with other trades.

5.18.8 Layout and Protection. The Design-Builder is responsible for all layouts and will preserve and protect all line and grade benchmarks. Any additional surveying or layout caused as a result of Design-Builder or any of its Subcontractor's failure to take the necessary precautions to protect the data will be performed at Design-Builder's own cost and expense.

5.18.9 Materials and Equipment. All materials and equipment required under the Contract Documents will be new and of good quality. Once the Construction Documents are approved by Owner, no substitutions will be accepted on this Project unless: (i) the specified materials or equipment have been discontinued; or (ii) the Owner has approved the substitution through written Change Order. Materials and equipment will be furnished in ample quantities and procured in time to ensure uninterrupted progress of construction. All materials and

equipment will be properly stored and protected as required by the Contract Documents and any loss or damage due to improper storage or protection will be borne by the Design-Builder.

5.18.9.1 Long Lead Items. The Design-Builder will collaborate with Owner to establish a program to expedite ordering and delivery of materials and equipment requiring long lead time.

5.18.9.2 Shipment and Deliveries. Prior to shipment, delivery and installation of materials and equipment, the Design-Builder will verify the stage of completion of the Project with Owner to determine the availability of facilities for access, delivery, transportation and storage, and to correlate these observations with the requirements of the Contract Documents. All shipments and deliveries will be scheduled and coordinated in accordance with the most current approved site logistics plan and the most current approved Project Schedule.

5.18.9.3 Storage of Materials and Equipment. Storage of equipment and materials will be coordinated through the Design-Builder and the OR. Design-Builder will maintain, or cause its Subcontractor's to maintain, all storage areas and will keep storage areas clean, safe and secure. Any materials or equipment stored offsite will be insured or stored in a bonded warehouse unless Design-Builder and Owner agree that materials and equipment can be safely on-site. The risk of loss will remain on the Design-Builder for all materials and equipment stored.

5.18.9.4 Risk of Loss. All construction work stored at the Project site, or work related to the preparation or delivery of materials or equipment to the Project site, is performed exclusively at the risk of the Design-Builder and will remain at the risk of the Design-Builder until Final Completion of the Project.

5.18.9.5 Maintenance. The Design-Builder will provide all maintenance for systems and equipment at its own costs and expense until Substantial Completion.

5.18.9.6 Safety. The Design-Builder shall comply with all statutory safety requirements, as well as the its own health and safety plan, as approved by the Owner.

6. SUBCONTRACTORS

6.1 Procurement. Those portions of the Work that the Design-Builder will not self-perform, or that will not be performed by Design Professionals or Subcontractors named in Design-Builder's proposal, will be performed by Subcontractors added during the course of the Work in accordance with the bidding process in Section 5.17 and Public Contract Code Sections 22166 and 4100, et seq. All subcontracted work shall be performed under written subcontracts or purchase orders.

6.2 Written Agreements. All subcontracts will be in writing and will bind the Subcontractor to the Design-Builder by the terms of the Contract Documents, and Subcontractor will assume toward the Design-Builder all the obligations and responsibilities that the Design-Builder assumes toward the Owner. Each subcontract agreement will preserve and protect the rights of the Owner and Design-Builder under the Contract Documents with respect to the portion of the Work to be

performed by the Subcontractor so that subcontracting the Work does not prejudice the Owner's rights. Where appropriate, the Design-Builder will require Subcontractors to enter into similar agreements with its tier-subcontractors. The Supplemental Conditions to this Agreement and all necessary Exhibits to this Agreement will be a part of each Subcontract Agreement.

6.3 Licensing Requirements. All Subcontractors will be properly licensed for their respective portion of the Work. Those Subcontractors that are part of the Design-Build Team will be licensed for design and construction of their respective portion of the Work. All other subcontractors will hold the proper Class C specialty license.

6.4 Standard of Care. All Subcontractor's will warrant that they possesses the design and/or construction licenses and expertise required for this Project and will use the same degree of care and skill customarily used by California state licensed professionals and contractors performing similar services for wastewater facilities construction in the state of California during the same time frame.

6.5 Conflicting Terms. All conflicts arising out of any subcontract agreement will be resolved in accordance with the order of precedence set forth in Section 3.3, and this Agreement will take precedence over any terms and provisions in a subcontract.

6.6 Assignment. Each subcontract agreement will include an assignment provision. The assignment provision will allow for assignment of subcontracts to the Owner upon termination of the Design-Builder for cause provided: (i) Owner accepts assignment by written notification to the Subcontractor and Design-Builder; and (ii) assignment is subject to the rights of the surety, if any, obligated under a bond or bonds relating to this Agreement. The Design-Builder will not be responsible for acts and omissions of the Subcontractors that occur after the effective date of assignment.

6.7 Claims and Dispute Resolution. The Subcontractor will be bound to the same claims and dispute resolution procedures as set forth in Section 17 of the Supplemental Conditions.

6.8 Insurance. The Design-Builder may, at its discretion, require its Subcontractors, through written subcontract, to carry appropriate insurance and bonding. Design-Builder's insurance must satisfy all requirements set forth in **Exhibit 8B** regardless of any subcontractor coverage.

6.9 Indemnity. The Design-Builder will cause its Subcontractors, through written subcontract, to include the indemnification provisions set forth in Section 11 and to indemnify and defend the Owner and its board of commissioners, the Owner, and Design-Builder from all claims, damages and liability pursuant to the provisions in Section 11.

6.9.1 Third Party Beneficiary. The Owner will be an express third party beneficiary to all design-build subcontracts.

6.9.2 Subcontractors. Subcontracts may be awarded on a lump sum or best value basis.

6.9.3 Change Orders. Subcontractors will be entitled to recover for all changes to their respective scope of work regardless of whether one of the conditions set forth in Section 9.1 exist.

6.9.4 Contract Time. Subcontractors will be tied to similar provisions governing Contract Time under Section 8.

7. COMPENSATION

7.1 General. The delivery method for this Project is progressive design-build. Progressive design-build requires the Design-Builder to submit pricing information with its proposal before the full scope of the design and construction work can be known. Accordingly, the compensation terms for the design and preconstruction work during Stage 1 of the Project will be different from the compensation terms for the completion of design and all construction work during Stage 2.

7.2 Stage 1 Compensation. During Stage 1 of the Project, the Design-Builder will complete all design and preconstruction services summarized in Section 5.2 of this Agreement and elaborated in more detail in the Scope of Work in **Exhibit 3**, including but not limited to completion of the design to 60% Construction Documents, obtaining construction pricing information for trade work, materials and equipment, and submitting a proposed Stage 2 Amendment utilizing Owner's form. Compensation for all Stage 1 Work, including cost of the design and preconstruction Work, overhead, and profit of Design-Builder and all of its Design Professionals, and design-assist Subcontractors, will be on the basis of a lump-sum amount of _____ Dollars and _____ Cents (\$_____). Design-Builder will be paid pursuant to monthly invoices based on percentage of completion of Stage 1 Work.

7.3 Stage 2 Amendment. Prior to commencing any work on Stage 2 of the Project, Design-Builder shall submit a proposed Stage 2 Amendment to Owner, including an open book cost model detailing all Stage 2 costs, and summarizing the proposed terms of compensation during Stage 2. Design-Builder shall provide Owner with all backup reasonably requested by Owner, which may be reviewed by independent cost estimators on Owner's behalf. The process for submission of the Stage 2 Amendment is described further in Section 5.3 of this Agreement, and the form of Stage 2 Amendment is included in **Exhibit 4B** to this Agreement. The Design-Builder and Owner must both agree to the terms of the Stage 2 Amendment, and execute it, before the Design-Builder is authorized to proceed with Stage 2 Work.

7.4 Stage 2 Compensation. During Stage 2 of the Project, the Design-Builder will complete all remaining design work to 100% Construction Documents, and perform all construction Work, as summarized in Section 5 of this Agreement. Compensation for all Stage 2 Construction Services shall be included in the Stage 2 Amendment, as described in more detail below. Owner may elect to proceed to Stage 2 with either a GMP or a Lump Sum price, but the initial proposed Stage 2 Amendment must be submitted with a proposed GMP.

7.5 Guaranteed Maximum Price Approach. Design-Builder guarantees that the sum of the following will not exceed the Guaranteed Maximum Price (GMP) set forth in the Stage 2 Amendment, as adjusted by Change Order: 1) Stage 1 lump sum compensation set forth above in Section 7.2; 2) Direct Cost of the final design and construction work pursuant to Section 7.5.1; 3) Overhead and Profit pursuant to Section 7.5.2; 4) Payment and Performance Bonds pursuant to Section 7.5.3; and 5) Construction Contingency pursuant to Section 7.5.4.

7.5.1 Direct Cost of the Work. The Stage 2 Amendment will include a lump sum reflecting the agreed upon "Direct Cost of the Work," which amount shall be comprised of each of the following: a) a lump sum for Stage 2 services to be performed by each design-assist subcontractor that is already part of the Design-Build Team; b) a lump sum for each Subcontractor added to the Design-Builder's team to perform Stage 2 construction services that was not identified in the Statement of Qualifications or in the Design-Builder's proposal, either based on a subcontract awarded or estimates for each work package to be awarded in conjunction with Stage 2; c) a lump sum for all Design-Builder self-performed work during Stage

2; and d) a negotiated lump sum for the estimated cost of Design-Builder's General Conditions for all Stage 2 Work, as described in Section 7.5.1.1 below. Design-Builder will be paid the Direct Cost of the Work for each payment request based actual verified costs incurred for each pay period.

7.5.1.1 General Conditions. For purposes of establishing the General Conditions component of Direct Cost of the Work under the GMP, the Design-Builder will propose a lump for the estimated cost of the General Conditions for all Stage 2 Work. The Design-Builder will provide all backup and supporting documentation reasonably requested by the Owner. General Conditions shall include all staff and facilities located at the construction site to manage and support Design-Builder's construction work, including all professional construction management and administration services required during Stage 2. As with all Direct Cost of the Work, Design-Builder will be paid for its General Conditions costs on the basis of actual verified costs incurred for each pay period.

7.5.2 Overhead and Profit. Design-Builder will be paid its Overhead and Profit percentage for each payment request, as applied to the Direct Cost of the Work submitted with each payment request.

7.5.3 Payment and Performance Bonds. Design-Builder will be paid its Payment and Performance bond percentage for each payment request, as applied to the Direct Cost of the Work submitted with each payment request and the Overhead and Profit.

7.5.4 Construction Contingency. Design-Builder will be entitled to provide within the GMP a Construction Contingency, in an amount to be established in the GMP Amendment, that will not exceed _____ percent (___%) multiplied by the total Direct Construction Costs and the estimated Design-Builder Self-Performed Stage 2 Work identified in the GMP. The Construction Contingency will be available for Design-Builder to cover any cost of the Work unanticipated by Design-Builder on the effective date of the GMP Amendment, such as faulty installation, unanticipated field conditions that do not constitute a differing site condition, re-sequencing the Work for the good of the Project, and design errors and omissions. Use of the Construction Contingency requires Owner's approval, not to be unreasonably withheld. The Construction Contingency is not a separate fund, but is tracked as a separate line item within the GMP and will be used as a cost management tool. When used, the Construction Contingency funds will be transferred from the Construction Contingency line item to one or more Direct Construction Cost line items in the GMP. Owner may not require Design-Builder to use the Construction Contingency to pay for Change Order work. All unspent funds in the Stage 2 Construction Contingency at Final Completion shall be shared 60/40 between Owner and the Design-Builder.

The GMP will be created by calculating lump sums for each of the following components, as follows:

- | | |
|---|----------------------|
| (1) Stage 1 Design and Preconstruction Services | \$ _____ |
| (2) Direct Cost of Work | \$ _____ |
| (3) Overhead and Profit | _____ % of (2) |
| (4) Payment and Performance Bond | _____ % of (2) + (3) |

(5) Construction Contingency

_____ % of (2)

GMP

\$ _____

7.6 Lump Sum Approach. At the Owner's discretion, compensation for Stage 2 Work may be on the basis of a negotiated lump sum. In that event, Design-Builder will be asked to propose a lump sum amount for all Work performed during Stage 2, which will cover all labor, equipment, materials, profit, overhead, taxes and any other expenses to be incurred by the Design-Builder during Stage 2. Design-Builder will provide all backup and supporting documentation reasonably requested by the Owner to support the lump sum. The Design-Builder consents to allow the Owner to disclose the lump sum and all backup and supporting documentation to independent cost estimators of the Owner's choosing. The Design-Builder agrees to negotiate in good faith with the Owner to arrive at an agreed upon amount.

7.7 Design-Builder Allowances. In developing the GMP/LS, the Design-Builder may propose including appropriate allowances for defined items of Work that cannot be appropriately quantified and estimated at the time the GMP/LS is established, only with specific approval of Owner. Each such item of Work will be covered in a separate line item and have a clear description of what is covered by such allowance in the GMP/LS. Allowance items will be converted to, and included as, typical contract work by Change Order once conditions exist that allow them to be properly quantified and priced. Allowance items that cannot reasonably be quantified and estimated before the allowance work begins will be reconciled based on the actual cost of the allowance Work. If the actual cost of the Work for any item of Work covered by an allowance will be greater than the amount of the allowance, Design-Builder will so notify Owner and if Owner authorizes the allowance Work in a Change Order, the GMP/LS will be increased by such difference with an additional agreed upon amount for overhead and profit. If the cost of any item to which such an allowance applies is less than the amount of the allowance, Owner may issue a Change Order decreasing the GMP/LS by the sum of the amount of such difference and the mark-up for overhead and profit on the difference.

8. CONTRACT TIME

8.1 Contract Time. The Design-Builder must achieve Final Completion of the Work using best practical safe speed to complete the Work so that the existing pipeline and pump stations can be taken out of operation as early as reasonably possible. The Contract Time established with the Stage 2 Amendment is the time allotted for the Design-Builder to achieve Final Completion of the Work. The Contract Time is currently estimated to be 1,825 calendar days from issuance of the Stage 1 Notice to Proceed. During Stage 1, D-B and owner will diligently work together to develop a schedule that seeks to improve upon the initial estimated Contract Time by completing the Work sooner. Once the Stage 2 Amendment is executed, the Contract Time is guaranteed by the Design-Builder. The Design-Builder must also achieve all specific milestone completion dates as set forth in the Project Baseline Schedule in **Exhibit 6A**.

8.2 Monthly Project Schedules. The Design-Builder will create monthly Project Schedule updates incorporating activities and schedule updates of the Design Professionals and Subcontractors on the Project as necessary to reflect the status of design and construction and projected milestone dates for Substantial Completion and Final Completion. The Design-Builder will provide information in an agreed upon format, and as requested by the Owner, for the scheduling of times and sequences of operations required for its Work in coordination with the work of Owner's separate contractors.

8.2.1 Interim Project Schedules. The Design-BUILDER, with the assistance of its Design Professionals and **Subcontractors**, will also create “**Interim Project Schedules**”, that will provide a 3 week look ahead for the performance of upcoming Work and document all Work performed during the prior 3 week period. The Design-BUILDER will require its Subcontractors and Design Professionals to continuously monitor the monthly Project Schedule and Interim Project Schedule and understand the timing, phasing and sequencing of operations of their respective work with other Work being performed at the Project. The Interim Project Schedule is to be used as a working tool to evaluate any schedule slippages and collaborate on methods for labor efficiency. Work flow will be scheduled based on providing information, material and resources as required by the user of the information, material or resources, optimizing the flow of Work through the Project and reducing bottlenecks and activity that will not advance the Project Schedule. The Design-BUILDER will provide Owner with copies of the Interim Project Schedules and will meet with Owner to review and coordinate with any work being performed by Owner’s separate contractors.

8.3 Prosecution of the Work. The Design-BUILDER will commence the Work when notified to do so by the Owner and will diligently prosecute and complete its Work pursuant to the most current Interim Project Schedule. The Design-BUILDER will coordinate its Work with other work being performed on the Project in a manner that avoids delays, obstructions, hindrances, or any interference with the commencement, progress or completion of the whole or any part of the Work on the Project, and in accordance with the Contract Time.

8.3.1 Schedule Slippage. The Design-BUILDER will notify Owner and the Owner within 48 hours of any slippage in the Interim Project Schedule as a result of its Work and must submit a detailed recovery plan for evaluation and approval by Owner and the Owner. All costs associated with the recovery will be the responsibility of the Design-BUILDER unless the Design-BUILDER is entitled to an extension of time under Section 8.4.

8.3.2 Acceleration. The Owner may direct the Design-BUILDER and its Subcontractors and Design Professionals to work overtime. If the Design-BUILDER and its Subcontractors and Design Professionals are not in default under any of the terms or provisions of this Agreement, their respective subcontracts and/or agreements, or any of the other Contract Documents, the Owner will pay the Design-BUILDER, its Subcontractors and Design Professionals for actual additional wages and/or billable rates paid, if any. All additional wages and billable rates paid will be subject to audit.

8.4 Permitted Delays. If the Design-BUILDER is delayed, obstructed, hindered or interfered with in the commencement, prosecution or completion of the Work by: (i) any negligent act or omission of the Owner, or Owner’s separate contractors; (ii) “**Owner Elected Changes;**” (iii) damage caused by a “**Force Majeure Event;**” (iv) “**Unforeseen and Differing Site Conditions;**” and/or (v) “**Owner’s Suspension of the Work,**” and the critical path of the most current, approved Project Schedule is impacted extending the Final Completion Date, the Substantial Completion Date, or any specific milestone completion dates, then the Design-BUILDER will be entitled to an extension for the same period of time that the Design-BUILDER was delayed provided that the delay, obstruction, interference or hindrance was not caused, in whole or in part by any fault, neglect, act or omission of the Design-BUILDER, its employees, Design Professionals, Subcontractors or suppliers. Notwithstanding the above, the Design-BUILDER will not be entitled to an extension of time unless the Design-BUILDER provides the Owner with notice in writing of potential delay, obstruction, hindrance or interference within 48 hours of the discovery of the potential delay. Design-BUILDER shall following up with all practical speed, but not later than 7 days after the initial notice, to summarize the cause or causes of the delay, and demonstrates that it could not have anticipated or avoided the delay, obstruction, hindrance or

interference and has used all available means to minimize the consequences of the delay. The Design-Builder may also be entitled to an adjustment in the Contract Price.

8.5 Liquidated Damages. The Owner and Design-Builder acknowledge and agree that if Design-Builder fails to **achieve** Substantial Completion within the time set forth in section 8.1, the Owner will suffer damages that are both extremely difficult and impracticable to ascertain. Therefore, Owner and Design-Builder agree that, liquidated damages shall be enforced on failure to achieve Substantial Completion and designated Project milestones. Owner currently contemplates the following liquidated damages: a) RLS Shaft Construction Milestone at \$8,000 per day; b) TBM Removal Milestone at \$8,500 per day; and c) Substantial Completion Milestone at \$9,000 per day.

Payment of liquidated damages represents a reasonable estimate of fair compensation for the losses that reasonably may be anticipated as a result of Design-Builder's delays in completing the work. Owner and Design-Builder acknowledge and agree that this liquidated damages provision will be Owner's sole remedy for delay damages caused by Design-Builder's failure to achieve Substantial Completion, Final Completion, within the time set forth in section 8.1, and/or any of the specific milestone completion dates. Nothing contained in this Section will preclude the Owner from recovery for actual damages caused by reasons other than the Design-Builder's failure to timely achieve Substantial Completion, Final Completion, and/or any of the specific milestone dates, but not limited to, claims for actual losses incurred due to breach of contract, negligence, defective work, injury to persons or property or third party claims, and consequential damages not otherwise waived under this Agreement.

9. CHANGES

9.1 Change Orders. A Change Order is a mutually agreed written order adjusting the Design-Builder's Contract Price, Contract Time or all. A Change Order may come through an Owner Elected Change, or Design-Builder's request. All changes in the Work will only be authorized by an Owner Elected Change, or Owner executed Change Order and performed under the applicable conditions of the Contract Documents. A Change Order signed by the Design-Builder and Owner indicates an agreement to any adjustment in the Contract Time, and Contract Price, which includes all Costs of Work plus Fee, and that the adjustments in the Change Order fully and completely resolves any claim by Design-Builder for additional compensation or time arising from or related to the subject of the Change Order. Change Orders for additional Work that was not considered as part of the Contract Price are limited to the following circumstances and, therefore may impact the Contract Price, and may or may not impact Contract Time:

9.1.1 Owner Elected Changes;

9.1.2 Force Majeure Events;

9.1.3 Unforeseen and Differing Site Conditions as measured against the Geotechnical Baseline Report;

9.1.4 Owner's Suspension of the Work as defined in Section 16.2.

9.2 Owner Elected Change. The Owner will initiate a Change Order by providing the Design-Builder with a written **summary** of the Owner Elected Change within 10 business days of receipt of an Owner Elected Change, the Design-Builder must submit a complete cost proposal for the revised scope to the Owner, as well as any proposed change in Contract Time under Section 8.4. The Owner will review and evaluate the Design-Builder's cost proposal and any proposed change in

Contract Time, before presenting the Design-Builder with a proposed Change Order at either its regular weekly meeting or a special meeting may be called under Section.

9.3 Design-Builder Initiated Changes. The Design-Builder must provide the Owner written notice of a proposed change within 5 business days of discovery of the facts or circumstances giving rise to the proposed change order. The Owner will meet and discuss the proposed change either at its regular weekly meeting or at a special meeting.

9.4 Submission. All claims for additional compensation or deductions due to changes in the Contract Price or extensions in Contract Time will be presented in writing to the Owner for review. The Owner will either discuss the proposed change at its regular weekly meeting or will call a special meeting to meet and review the proposed change. At the conclusion of the meeting an Owner Elected Change may be issued. Any change order request exceeding an amount of \$250,000 per occurrence or a total amount of \$500,000 cumulative will require board approval and must be timely submitted by the Design-Builder to allow for Owner review, approval and presentation at the board's monthly scheduled meetings. All Change Orders must be approved by the Owner before the expense is incurred. Additive Change Orders will affect Contract Price and may affect Contract Time, subject to Section 8.4. Deductive Change Orders will affect Contract Price and may affect Contract Time, subject to Sections 9.4 and 9.6.

9.5 Pricing. Methods used for determining adjustments to the Contract Price include: (i) mutual agreement on a lump sum for all costs and fee; or (ii) construction work performed on a time and material basis plus Fee, as set forth in Section 9.5.1. If the Work is performed on a time and material basis, the Design-Builder will keep and present an itemized accounting for the construction work performed based on daily time tickets executed by the Owner, material and equipment invoices, and other supporting data substantiating the amount of the Change Order. For such time and material Work, costs will be broken down by direct costs for labor, materials, and equipment, plus Fee.

9.5.1 Fee. Design-Builder's Fee on additive and deductive Change Orders will be the same percentage provided for overhead and profit in Design-Builder's proposal. Subcontractor overhead and profit will be limited to 15% on additive and deductive Change Orders; or a 20% total aggregate for those Subcontractor who contract with lower tier-subcontractors.

9.6 Deductive Changes. The amount of credit for deductive Change Orders resulting in a net decrease to the Contract Price will be the actual net decrease based on the decrease of any Cost of Work pursuant to **one** of the pricing methods set forth in Section 9.5. When both additions and credits covering related Work or substitutions are involved in a proposed change, the Change Order will be determined on sum of the net increase or decrease.

9.7 Continued Performance. No Work will be allowed to lag pending the adjustment through Change Order, but will be promptly executed as directed through Owner Elected Change, even if a dispute arises. Disputes will be resolved in accordance with Section 18.10. Failure of the Design-Builder to provide the Owner with notice of its disputed claim and to submit the written claim within 10 business days of **completion** of the Work in dispute constitutes an agreement on the part of the Design-Builder that it will not be paid for its Work. No claim will be considered after the Work in question has been performed unless a written Change Order has been executed or timely written notice of claim has been made by the Design-Builder. The Design-Builder will not be entitled to claim or to bring suit for damages, whether for loss of profits or otherwise, on account of an omission of any item or portion of Work covered by the executed Change Order.

9.8 Omitted Work. If the Design-Builder omits Work that is included in the Contract Documents, the Owner will have the right to withhold from payments due or to become due to the Design-Builder in an amount which, in the Owner's opinion, is equal to the value of Work that was omitted until the Work is performed.

9.9 Contract Price Reduction. The Owner may also reduce the Contract Price to reflect backcharges or payments withheld pursuant to the Contract Documents upon written notice, and 48 hours opportunity to cure.

9.10 Contract Time Impacts and Extended Costs. The Design-Builder will not reserve a right to assert impact costs, extended job site costs, extended overhead, constructive acceleration and/or actual acceleration beyond what is allowable under Section 8.4 and claimed in a proposed change order under **Section 9.3**. No claims will be allowed for impact, extended overhead costs, constructive acceleration and/or actual acceleration due to a multiplicity of changes and/or clarifications. Nothing contained in this Section will be construed as restricting the rights and remedies of Design-Builder in violation of Civil Code section 2782 or Public Contract Code section 7102. If this provision is determined to conflict with Public Contract Code section 7102 or Civil Code section 2782, this provision will be reformed to provide the greatest protection to the Owner under the law.

9.11 Surety. All changes, additions or omissions in the Work ordered through an Owner Elected Change, or Change Order are part of the Work and will be performed and furnished in strict accordance with all of the terms and provisions of the executed Change Order and the other Contract Documents. The Design-Builder will keep its surety informed of all modifications to this Agreement. The obligations of Design-Builder's surety are not to be reduced, waived or adversely affected by the issuance of Change Orders even if the Design-Builder fails to inform the surety of the Change Order(s) and the Owner will not be required to obtain consent of the surety to the Design-Builder or any of its Subcontractors.

10. PAYMENT

10.1 Progress Payments. In accordance with Public Contract Code section 20104.50, the Owner will make monthly progress payments on all undisputed Work within 30 calendar day's receipt of a monthly invoice that was properly submitted pursuant to the procedures set forth in this Section and as further established by the Owner. Each invoice will be submitted on the forms provided by the Owner and will include a completed schedule of values, conditional waivers and release of claims for all amounts included in the invoice, and all documentation necessary to substantiate that the amounts billed as Cost of Work reflects the actual costs incurred by Design-Builder through the date of the invoice. The invoice must be certified by the Design-Builder and made out to the Owner. Before making payment, the Owner will review the invoice for accuracy of the Work completed to date.

10.1.1 Schedule of Values. The schedule of values will allocate the direct costs among the various trades. The insurance, bond, and overhead costs will be carried on separate line items. A draft schedule of values must be submitted to Owner by the 20th calendar day of each month in order to be included in the monthly billing cycle.

10.1.2 Evaluation of Invoice. The Owner will review the invoice based on the approved schedule of values, on-site observations and evaluation of the Work, and on the data and documentation substantiating the invoice. Based on that review, Owner will pay all undisputed items. An approval of an invoice is subject to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion of the Work and to specific qualifications expressed by the Owner. Owner is entitled to rely on

the accuracy and completeness of the information furnished by the Design-Builder and approval will not be deemed to represent that a detailed examination, audit, or arithmetic verification of the documentation submitted with the Design-Builder's invoice has been made or that exhaustive or continuous on-site inspections have been made to verify that the Work is in accordance with the Contract Documents. A payment by Owner does not represent that Owner has ascertained how or for what purpose the Design-Builder has used money previously paid.

10.1.3 Retention. The Owner will withhold 10% of each portion of a progress payment covering construction work included in each monthly invoice submitted to the Owner. Retention will be withheld until the Project achieves Final Completion unless the Owner, in its sole discretion, agrees to release the Design-Builder's retention earlier and provided that the Work has been accepted by the Owner, and other necessary agencies with jurisdiction over the Project.

10.1.3.1 Substitution of Securities. To the extent required by law, Owner will consider and approve reasonable and appropriate requests under Public Contract Code section 22300 for substitution of securities or establishment of an escrow account for retention. Nothing contained in this Section will prevent Owner from withholding payment when grounds exist for doing so under the Contract Documents.

10.1.4 Change Orders. Applications for payment may include requests for payment on account of changes in the Work that have been properly authorized.

10.1.5 Stored Materials. Stored materials may be included in the invoice provided the materials are properly stored in accordance with Section 5.18.9.3 and a complete invoice accompanies the invoice. Owner will only pay for 75% of the cost of materials stored on-site, and will not pay for materials stored offsite.

10.1.6 Stop Payment Notices and Claims. Upon submission of an invoice, the Design-Builder warrants that all Work included in the invoice has been performed in accordance with the Contract Documents and that title to all Work covered by an invoice will pass to the Owner no later than the time of payment and to the best of the Design-Builder's knowledge, information and belief, will pass to the Owner free and clear of all stop payment notices, claims, security interests or encumbrances. Design-Builder will provide executed conditional waivers and release of claims for all amounts included in the invoice. Waivers must comply with the requirements of California Civil Code section 3262.

10.1.7 Owner Payment to Design Professionals, Subcontractors and Suppliers. The Owner will not have an obligation to pay a Design Professional or Subcontractor for Work performed unless required by law. However, if the Owner receives a stop payment notice or has reason to believe that the Design-Builder is not paying its Design Professionals or Subcontractors and suppliers, the Owner may make payment of sums due to Design-Builder through joint check or pay Design Professionals and Subcontractors and suppliers directly and withhold those payments from Design-Builder.

10.2 Final Payment. Upon Final Completion of the Work, the Design-Builder will submit a final payment application. All prior progress estimates will be subject to correction in the final invoice. If items remain to be completed at that time, then the Design-Builder in conjunction with Owner will revise the Final Punch List and will include 150% of the estimated cost to complete each remaining item. The Owner may withhold from the final payment 150% of the estimated cost to complete the

Work. The amount retained by the Owner for Final Punch List items will be released to the Design-Builder as each item is completed. Upon Final Completion of the Project, final payment of the retention, if unencumbered, will be paid on all undisputed amounts no later than 30 calendar days after either Final Completion of the entire Project or recordation of a Notice of Completion (whichever is later), and in no event later than the time prescribed under Section 7107 of the Public Contract Code.

10.2.1 Contract Price Reduction. Upon Final Completion of the Project, the Owner may reduce the Contract Price to reflect costs charged to the Design-Builder, backcharges or payments withheld pursuant to the Contract Documents.

10.2.2 Evidence. Before issuance of final payment, Owner may request satisfactory evidence that: (i) all payrolls, materials bills and other indebtedness connected with the Work have been paid or otherwise satisfied; (ii) insurance required by the Contract Documents will remain in force after final payment and will not be canceled or allowed to expire until at least 30 calendar days prior written notice has been given to the Owner; (iii) the Design-Builder knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (iv) surety, if any, has consented to final payment, (v) Owner has received all close-out documents required by the Contract Documents; and (vi), other data establishing payment or satisfaction of obligations, such as releases and waivers of stop payment notices, claims, security interests or encumbrances arising out of this Agreement have been received.

10.2.3 Payment Not Acceptance of Work. Approval of an invoice (final or otherwise) or partial or entire use or occupancy of the Project by the Owner will not be used as conclusive evidence that the Work was properly performed or constitute acceptance of Work that is not in accordance with the Contract Documents.

10.3 Payments Withheld. In addition to the Design-Builder's 10% retention, the Owner may withhold payments due to the Design-Builder that may be necessary to cover: (i) stop payment notice claims; (ii) defective Work not remedied; (iii) failure of Design-Builder to make proper payments to its Design Professionals, Subcontractors or suppliers; (iv) damage to Design Professionals, Subcontractors or third party caused by Design-Builder; (v) amounts due to the Owner for claims against Design-Builder; (vi) failure to provide Owner with timely schedule updates under Section ??; (vii) disputed amounts in the invoice; and (viii) legally permitted penalties.

10.4 Waiver of Claims. Acceptance of final payment by the Design-Builder will constitute a waiver of claims by Design-Builder and its Design Professionals, Subcontractors and suppliers except for those previously made in writing and identified by the Design-Builder as unsettled at the time of final invoice.

11. INDEMNIFICATION

11.1 Indemnification.

Design-Builder shall defend, indemnify, and hold harmless Silicon Valley Clean Water and its directors, officers, employees and agents, and its successors and assigns (collectively referred to as "Indemnitees") from and against all third party claims, demands, liability, suits, actions, costs or expenses (including reasonable attorneys' fees) for any and all loss or damage, including, but not limited to, personal injury or property damage, arising out of or resulting from allegations of:

- a. The failure or alleged failure by any Design-Builder Team Member to comply with any

applicable law, order, citation, rule, regulation, standard, ordinance or statute, including rules and regulations imposed by Cal-OSHA and caused by the act or omission of the Design-Builder;

b. The negligent act, omission, misconduct, or fault, or the alleged negligent act, omission, misconduct or fault of any Design-Builder team member;

c. Any and all claims by any governmental or taxing authority claiming unpaid taxes based on gross receipts, purchases or sales, the use of any property or income of any Design-Builder team member with respect to any payment for the Work made to or earned by the Design-Builder team member under the Contract Documents;

d. Any and all stop payment notices and/or liens filed in connection with the Work, including all expenses and attorneys' fees incurred by the Owner in discharging any stop payment notice or lien, provided that the Owner is not in default on payments owing to the Design-Builder with respect to such Work;

e. Failure of the Design-Builder to comply with the Insurance provisions set forth in **Exhibit 8**;

f. Any release of hazardous materials:

1. Brought onto the Site by any Design-Builder team member; or
2. Where the removal or handling involved negligence, willful misconduct, or breach of Contract by any Design-Builder team member; and

Nothing in this section shall require the Design-Builder to defend, indemnify or hold harmless the Indemnitees for the Indemnitees' sole negligence, willful misconduct, or active negligence.

11.2 Indemnification for Infringement of Intellectual Property Rights.

The Design-Builder agrees to fully defend, indemnify, and hold harmless the Indemnitees against any demand, claim, cause of action, suit, proceeding, or judgment that design, service, method, or product called for and provided by the Design-Builder or any Design-Builder team member (herein called "deliverables") that infringes or allegedly infringes any patent, copyright, trademark, service mark, trade dress, utility model, industrial design, mask work, trade secret, or other proprietary right of a third party (collectively "Intellectual Property Right").

The Design-Builder shall pay any and all costs of such defense and settlement (including interest, fines, penalties, costs of investigation, costs of appeals, and attorney 's fees), and will pay any and all costs and damages finally awarded against any of the Indemnitees. The Design-Builder shall have the exclusive right to conduct its legal defense.

In the event that any deliverable furnished hereunder, or called for in any design or services provided under this Agreement, is in any suit, proceeding, or judgment held to constitute an infringement on any third party's Intellectual Property Right, and its use is enjoined, the Design-Builder shall, at its own expense accomplish the following:

- a. Procure the fully paid-up, irrevocable, and perpetual right for the Owner to continue using the deliverable;
- b. Modify the deliverable; or
- c. Provide for the replacement of the deliverable with an alternative product that is functionally equivalent to the deliverable.

If the Design-Builder is unable to provide the Owner with one of the forms of relief described above, the Design-Builder shall also reimburse to the Owner the total paid by the Owner for the deliverable that is held to constitute an infringement.

11.3 Indemnification for Design Defects. To the fullest extent permitted by law, the Design-Builder shall fully defend (with counsel acceptable to the OWNER), indemnify, and hold harmless Indemnitees from any and all claims, demands, causes of action, damages, costs, expenses (including legal, expert witness, and consulting fees and costs), losses, or liabilities of whatsoever nature that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the Design-Builder, its employees, any of the Design-Builder's Design Professionals or Subcontractors of any tier, or anyone for whom Design-Builder or any of its Design Professionals or Subcontracts may be liable, in relation to any of their design services, including but not limited to errors, omissions, inconsistencies, inaccuracies, deficiencies, or other defects whether or not contained in the Construction Documents furnished by the Design-Builder, and whether or not such errors, omissions, inconsistencies, inaccuracies, deficiencies, or other defects were also included in the Base Design Criteria provided by the Owner. The Design-Builder agrees that, because the Owner's Base Design Criteria are preliminary and conceptual in nature and are subject to review and modification by the Design-Builder, such documents shall not be deemed a "design furnished" by the Owner or any of the other Indemnitees, as the term "design furnished" is used in Civil Code Section 2782, and that this clause is governed by Civil Code Section 2782.8.

11.4 Exception. The indemnification provisions in this Section 11 will extend to claims occurring after this Agreement is terminated as well as while it is in force. However, Design-Builder will not be obligated to indemnify or provide a defense to the Indemnitees from claims arising from the active negligence or willful misconduct of Indemnitees. If any of the Indemnitees are actively negligent, the Design-Builder will continue to indemnify and provide a defense to Indemnitees but only to the extent and in proportion to the degree that the Indemnitees were not actively negligent. Nothing contained in Section 11 will be construed to impose any obligation in conflict with the provisions of Civil Code section 2782 and/or Insurance Code section 11580.04. In the event of a conflict, the provision conflicting with Civil Code section 2782 and/or Insurance Code section 11580.04 will be modified to limit Design-Builder's obligations to the greatest extent permitted by law.

11.5 Duty to Defend. The Design-Builder will defend all claims defined in Section 11.1 at its own cost, expense and risk and pay and satisfy any judgment or decree that may be rendered against any Indemnitee arising out of a claim, or reimburse Indemnitee(s) for any and all legal expenses incurred by any of them in connection with the claim or in enforcing the indemnity granted in this section. The duty to defend will apply, and Design-Builder will be required to furnish a defense, regardless of whether the matter has been adjudicated. The Owner shall have the right to approve counsel defending it, which approval will not be unreasonably withheld.

11.6 Consequential Damages. Neither party shall be entitled to recover consequential damages for any breach of the Agreement. However, this limitation of liability does not apply to: (i) defense and indemnification obligations; (ii) costs, liabilities or obligations arising from the willful misconduct or fraud, willful injury or violation of the law as defined in California Civil Code section 1668 by the Design-Build Entity or any of its employees, consultants, subcontractors, or suppliers or anyone working directly or indirectly for whom such parties may be liable; (iii) fines, penalties and other charges assessed by applicable governmental authorities; (iv) claims covered by insurance to the extent that there are insurance proceeds available; or (v) claims, including penalties and fines issued by government agencies, arising from leaks, ruptures or failures of the existing sewer pipeline which is

being replaced by the Gravity Pipeline, if those leaks arise after the date for Final Completion of the Work under this Agreement.

12. INSURANCE AND BONDS

12.1 Owner Controlled Insurance Program. The Owner will arrange for and purchase at Owner's cost an Owner Controlled Insurance Program ("OCIP") for the Project. The details of the OCIP are included in **Exhibit 8A** to this Agreement. The OCIP is an insurance program that insures the Owner, eligible and enrolled members of the Design-Builder's team, including construction managers, contractors and subcontractors, and other Owner designated parties for Work performed on the Project at the Project site. The OCIP will not cover professional services performed on the Project. The OCIP coverage will be primary over the Design-Builder's own insurance.

12.2 Design-Builder's Insurance Requirements. The Design-Builder will be required to provide its own insurance coverage to supplement the OCIP. The Design-Builder's insurance requirements are set forth in **Exhibit 8B** to this Agreement. The Owner, and its board of commissioners and officers will be a named additional insured under all of Design-Builder's insurance policies except errors and omissions policies. Likewise, the Design-Builder will require all Subcontractors to name the Owner, its board of commissioners and officers, and the Owner as additional insured on all Subcontractor policies except errors and omissions policies. Before commencement of the Work, the Design-Builder will provide certificates of insurance and endorsements per **Exhibit 8B** as evidence of insurance and Owner's, and Owner's additional insured status under those policies.

The Design-Builder shall be prepared to procure and maintain the following Workers Compensation and Employers' Liability Insurance in the specified amounts. The Owner will compare the Design-Builder's price for this coverage with the price for coverage under the OCIP, and may elect at its sole discretion to procure this coverage through the OCIP. Owner will make this decision prior to Stage 2.

12.3 Required Bonds. The Design-Builder will furnish a payment bond and a performance bond to the Owner, each in the amount equal to 100% of the cost of the construction work, on the forms provided in **Exhibit 8C and 8D**. The payment and performance bonds will be provided upon determination of the Contract Price. The surety supplying the bonds must be an admitted surety insurer, as defined in Code of Civil Procedure Section 995.120, authorized to do business as a surety in the State of California and satisfactory to the Owner. Failure to furnish the required payment and performance bonds to the Owner constitutes a default under this Agreement and the Owner will have all of the rights and remedies provided under the Contract Documents and afforded by law including, but not limited to, forfeiture of the bidder's bid deposit or bond to the Owner and the Owner may award this contract to another responsive and responsible bidder, or may call for new bids. Full compensation for furnishing the payment and performance bonds are included in the Contract Price.

12.3.1 Payment of Subcontractors. Without limiting the responsibilities of Design-Builder and its surety under the terms of this Agreement, the Design-Builder and its surety agree to promptly pay all lawful claims of Subcontractors, materialmen, laborers, persons, firms or corporations for labor or services performed or materials, supplies, machinery equipment, rentals, fuels, oils, tools, appliances, insurance and other items furnished, used, or consumed in connection with the prosecution of the construction work including Change Orders, and will indemnify and save harmless the Owner, and Owner from and against all liability loss, damage and expense, including interest, costs and attorneys' fees, which the Owner, and

Owner and/or its surety may sustain by reason of Design-Builder's or its surety's failure to do so.

13. WARRANTY OF THE WORK

13.1 Design-Builder Warranty.

13.1.1 Duration of Design-Builder Warranty on Furnished Labor and Materials. The Design-Builder shall provide a 2-year warranty on all furnished labor and materials, commencing on the date of Final Completion of all Work under the Agreement. In the event that any provision of the Contract Documents identifies a warranty period longer than 2-years, the Design-Builder shall warrant the specified item for the longer period. Moreover, in the event that corrective work is required under the Design-Builder Warranty, a 2-year warranty shall apply to the corrected work covering any discrepancies and defects in the corrected work that are discovered after the corrected work is accepted.

13.1.2 Scope of Design-Builder Warranty. In addition to any other warranties under this Agreement, the Design-Builder warrants that:

- a. The Work conforms to the requirements of the Contract Documents;
- b. All design Work furnished under the Agreement conforms to all professional engineering principles generally accepted as standards of the industry in the State of California and complies with the standard of care of a reasonable professional that is performing the same or similar work, at the same time and locality and under the same or similar conditions;
- c. The construction Work furnished under the Agreement is free from defects in workmanship, and was performed in a workmanlike manner and conforms to the standards of care and diligence normally practiced by recognized construction firms performing construction of a similar nature in the State of California, and conforms to the requirements of the Basis of Design Report and the 100% Construction Documents, as these documents may have amended during the course of Work under the Agreement;
- d. Materials and equipment furnished under the Contract Documents are of good quality and new;
- e. The Facilities are fit for the purposes intended in the Contract Documents;
- f. The Facilities shall be free of defects in design, material, and workmanship; and
- g. The Facilities shall function up to the standards set forth in the Basis of Design Report and all other reliability standards established in the Contract Documents.

13.2 Subcontractor Warranties. The Design-Builder shall obtain warranties from all Subcontractors and Design-Builder Team Members providing design services, labor, equipment, materials, supplies and maintenance equipment that would be given in normal commercial practice; require all such warranties to be executed in writing for the benefit of the Silicon Valley Clean Water and enforce all warranties for the benefit of the Silicon Valley Clean Water, if so directed by the Silicon Valley Clean Water. In no case shall such Subcontractor warranties decrease the warranty provisions specified in the Contract Documents. All such Subcontractor warranties from Design-Builder Team

Members shall run directly to and be enforceable by the Design-Builder and/or the Owner, any assignee of the Owner, and their respective successors and assigns.

The Design-Builder hereby assigns to the Owner all of the Design-Builder's rights and interest in all warranties that are received by the Design-Builder from any Subcontractor or Design-Builder Team Members. All such warranties shall survive Final Completion, acceptance, final payment, and termination of the Agreement if the stated warranty period extends beyond the Final Completion, acceptance, final payment, and termination of the Agreement.

13.3 Manufacturers' Warranties. The Design-Builder shall obtain manufacturers' warranties for all equipment procured and installed on the Project, including but not limited to concrete segments installed for the tunnel, and shall assign all such warranties to the Owner prior to Final Completion. Owner and Design-Builder shall agree upon acceptable warranty periods for each item of equipment prior to the procurement of the equipment.

13.4 Design-Life Warranty. The Design-Builder shall warrant that the Facilities shall function as designed for the entire period of its design-life. The design-life of the Facilities is 100 years. The design-life warranty pursuant to this Agreement shall apply to any design-life defects that indicate that the Facilities will not function as designed for the designated design-life, that are discovered within ten years of Final Completion of the Work.

13.5 Remedy. The Design-Builder shall remedy, at its own expense, any failure to conform to the warranty requirements set forth in this Section 13 Warranty of the Work. If the Design-Builder fails to remedy any such failure within a reasonable time after receipt of notice (or immediately in the case of an emergency), the Owner shall have the right in its sole discretion to replace, remove, or otherwise remedy the failure at the Design-Builder's expense.

13.5.1 Notification to Design-Builder. The Owner shall notify the Design-Builder, in writing, within a reasonable time after the discovery of any failure to conform to the warranty requirements set forth in this Section 13, Warranty of the Work.

13.5.2 Warranties Do Not Limit the Design-Builder's Liability. The foregoing warranties are in addition to all rights and remedies available under the Agreement or applicable law, and shall not limit the Design-Builder's liability or responsibility imposed by the Agreement or applicable law with respect to the Work, including:

- a. Liability for design defects;
- b. Latent construction defects;
- c. Strict liability;
- d. Negligence; and
- e. Fraud.

13.6 Assignment of Warranty. Upon providing written notice to the Design-Builder, the Design-Builder's warranties, including all warranties from Subcontractors and Design-Builder Team Members that have been assigned to the Design Builder, shall be immediately assignable by the Owner to any entity, in the Silicon Valley Clean Water's sole discretion.

14. OWNERSHIP OF DOCUMENTS

14.1 Ownership of Construction Documents. Upon payment of the Contract Price, the Owner will retain all rights, title, and interests under common law, federal or state law in the Project design set forth in the Basis of Design Report, the BIM, the Construction Documents, as well as any other documents prepared by the Design-Builder and any of its Design Professionals and Design-Build Subcontractors used for construction of the Project (“**Design and Construction Documents**”). The Design-Builder, its Design Professionals and Design-Build Subcontractors may retain one record set each of the Design and Construction Documents for the limited purpose of defense of any subsequent claims or disputes involving this Project. The Design-Builder, its Design Professionals and Design-Build Subcontractors will not own or claim a copyright in the Design and Construction Documents and other documents prepared by Design-Builder, its Design Professionals or Design-Build Subcontractors. All copies of the Design and Construction Documents, except the record set of the Design and Construction Documents mentioned above, will be returned to the Owner and/or the Owner upon completion of the Project. The Design and Construction Documents and other documents prepared by the Design-Builder were developed and furnished for use solely with respect to this Project. They are not to be used by the Design-Builder, its Design Professionals and/or Design-Build Subcontractors on any other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner.

14.1.1 Ownership. The master Building Information Model, the subsidiary models necessary for design and construction of the Project, and any related two dimensional drawings, calculations, schedules or specifications created for the Project will, upon completion of the Project, become the property of the Owner and the Parties agree to provide the Owner, as a deliverable before Final Completion, the Building Information Modeling files that the Owner deems necessary. Notwithstanding the above, design elements that were created by the Design-Builder, before execution of the Agreement, as extensions to commercially available building information modeling software will remain the property of the respective party that created the extension, regardless of whether it was used in a Building Information Model for this Project.

14.1.2 Licensing. The Design-Builder, its Design Professionals and Design-Build Subcontractors are granted a limited, non-exclusive, license to use and reproduce applicable portions of the Design and Construction Documents and other documents prepared by the Design-Builder for use in the performance of the Design-Builder’s Work under this Agreement. Additionally, the Owner grants the Design Build Team members a non-exclusive, perpetual license for use, or display of, the Project BIM or 2D information solely for either educational or promotional purposes.

14.1.3 Exception. Nothing contained in Section 14.1 will be construed to limit the Design-Builder, its Design Professionals and Design-Build Subcontractors rights, title and interest to continue to use their respective general design details that each of them uses or has used on multiple projects, or new standard design details that were developed during design of this facility.

14.2 Copies. All copies made under this license will bear the statutory copyright notice, if any, shown on the Design and Construction Documents and any other documents prepared by the Design-Builder, its Design Professionals and Design-Build Subcontractors. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project will not be construed as publication in derogation of the Owner’s copyright or other reserved rights and interests.

15. ACCOUNTING RECORDS

15.1 Audit. In accordance with Government Code Section 8546.7, records of both the Owner and the Design-Builder will be subject to examination and audit by the State Auditor General for a period of 10 years after final payment. Design-Builder will make available to the Owner any of the Design-Builder's other documents related to the Work immediately upon request of the Owner as set forth in Section 15.2.

15.2 Records. The Design-Builder will keep full and detailed accounts and exercise controls as may be necessary for proper financial management under this Agreement. In addition to the State Auditor rights above, the Owner will have the right during normal business hours to audit and copy the Design-Builder's documents related to this Project including, but not limited to, records, books, estimates, correspondence, instructions, drawings, receipts and invoices for materials, supplies and equipment, temporary facilities, etc., contracts, purchase orders, vouchers, memorandums, Change Orders and all substantiating documentation, certified payroll, and other data relating to the Cost of Work, the Contract Price in order to evaluate accuracy and completeness of Design-Builder's billing. The Design-Builder will preserve all Project records for a period of at least 3 years after final payment, or for such longer period as may be required by law. The Design-Builder will incorporate Section 15 accounting and auditing provisions into all Design Professional agreements and Subcontracts and require Design Professionals and Subcontractors to keep detailed and accurate accounting records for their portion of the Work for a period of at least 3 years.

16. TERMINATION, SUSPENSION AND ABANDONMENT

16.1 Termination for Fault. The Owner may terminate this Agreement upon not less than 7 calendar days' written notice and an additional 7 calendar days to commence curing upon the Design-Builder's failure to perform any material obligation under the Agreement. The Design-Builder will have 7 days after receiving reasonably detailed written notice thereof from the Owner, provided that, if the nature of the breach is such that it will reasonably require more than 7 days to commence curing, the Owner may not terminate so long as Design-Builder (1) promptly, upon receipt of notice to cure, submits a plan to initiate all actions reasonably necessary to correct the default and prevent its reoccurrence, and (2) Owner accepts Design-Builder's plan, and (3) Design-Builder commences and continuously implements the plan to Owner's satisfaction.

The Owner may also terminate this Agreement without notice or opportunity to cure upon the occurrence of the following Design-Builder events of default: 1) the failure to obtain and maintain any contract security instrument, 2) the failure to achieve acceptance of the Facilities through the acceptance process, and 3) the insolvency or bankruptcy of the Design-Builder. The notice will set forth the reason for termination and the effective date of termination. If the Owner terminates this Agreement for cause, the Design-Builder will not be entitled to any further payments except for work already completed. Nothing stated in this paragraph will prevent the Owner from pursuing and recovering any damages allowed by law from Design-Builder arising out of a breach of this Agreement. If a court of competent jurisdiction deems that termination of the Design-Builder was wrongful or otherwise improper, the termination will be deemed a termination for convenience under Section 16.3.

16.2 Suspension By Owner. If the Project is suspended by the Owner and not due to any fault of the Design-Builder or any of its Design Professionals or Subcontractors, the Design-Builder will be entitled to receive payment for all Work performed as of the effective date of the suspension, plus any documented direct costs to implement the suspension, and incurred within 2 weeks of the effective date of the suspension. The written notice of suspension will set forth the reason for suspension and

the effective date of suspension. If the Project is resumed, and provided that the suspension was not caused or due to any fault or neglect of the Design-Builder or any of its Design Professionals or Subcontractors, then the Design-Builder's compensation will be equitably adjusted through Change Order under Section 9.1.4 and the Contract Time will be equitably adjusted for the additional time required to achieve Final Completion.

16.3 Termination For Convenience. The Owner may terminate this Agreement, in whole or in part, for convenience upon 30 calendar days' written notice at any time. The notice will state the extent of the termination and effective date of termination. For Convenience Termination during Stage 1 and through the issuance of a Notice to Proceed for Stage 2, the Design-Builder will be entitled to receive payment for the percentage of Stage 1 work completed, not to exceed the Stage 1 lump sum amount. For Convenience Termination following the issuance of a Notice to Proceed for Stage 2 work, the Design-Builder will be entitled to payment for all Work performed as of the effective date of termination based on the compensation provisions set forth in Section 7 of this Agreement. Any dispute over the amount to be paid upon termination will be resolved in accordance with the dispute resolution procedures set forth in Section 17 of the Supplemental Conditions.

17. MISCELLANEOUS PROVISIONS

17.1 Governing Law. This Agreement will be governed and construed in accordance with the laws of the State of California without regard to the principles of the conflict of laws. The Parties agree that any claim or enforcement of a judgment or alternative dispute award will be filed with the appropriate court of law in San Mateo County.

17.2 No Solicitation of Employees. Owner will not solicit or employ any of Design-Builder's Project personnel for the duration of the Project.

17.3 Assignment. The Owner and Design-Builder, respectively bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of the other party with respect to all covenants of this Agreement. Neither Owner nor Design-Builder will assign this Agreement without the written consent of the other, and such consent will not be unreasonably withheld or delayed.

17.4 Severability. The terms and conditions of this Agreement will be interpreted in accordance with their plain meaning, and not strictly for or against either party. Any rule of construction or interpretation to the contrary will be of no force or effect with respect to this Agreement. If a court of competent jurisdiction finds any term or provision of this Agreement to be void or unenforceable for any reason that term or provision will be deemed severed, and the remainder of the Agreement will remain in full force and effect according to its terms and provisions, to the maximum extent permitted by law.

17.5 No Third Party Beneficiaries. Nothing contained in this Agreement creates a contractual relationship with, or a cause of action in favor of any third party against, either the Owner or Design-Builder. Owner and Design-Builder acknowledge and agree that the obligations of the Design-Builder are solely for the benefit of the Owner and are not intended in any respect to benefit Owner, or any other third parties.

17.6 Waiver. No action or failure to act by the Owner or Design-Builder will constitute a waiver of a right or **duty** afforded them under this Agreement, nor will such action or failure to act constitute approval of or acquiescence in a breach of this Agreement, unless specifically agreed to in writing.

17.7 Time is of the Essence. Time is of the essence with respect to each and every provision of the Agreement and any subsequent Change Orders.

17.8 Notice. Any notice required to be given by this Agreement will be in writing and deemed effective upon personal delivery, or 1 business day after being sent via registered or certified mail return receipt requested or by overnight commercial courier providing next business day delivery and addressed to the following respective parties:

To Owner:

Silicon Valley Clean Water
1400 Radio Road
Redwood City, CA 94065

With a Copy To:

Owner's Representative

Design-Builder:

17.9 Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, and all of which when taken together will constitute one instrument.

17.10 Modifications. All modifications to the terms and conditions set forth in this Agreement must be in writing and signed by an authorized representative of both parties.

17.11 Section Headings. The Section headings contained in this Agreement are for reference purposes only and will not in any way affect the meaning or interpretation of this Agreement.

17.12 Legal Citations. Legal citations to statutory requirements are included in the Agreement for convenience **and** an omission of any statutory requirement will not relieve the Design-Builder or its Design Professionals and Subcontractors from compliance with the law.

17.13 Exhibits. The Supplemental Conditions and following Exhibits are incorporated by reference into the Agreement as though set forth in full.

17.14 Entire Agreement. This Agreement represents the entire integrated agreement between the Owner and Design-Builder and supersedes all prior oral and written negotiations, representations or agreements by the parties with respect to this subject matter.

This Agreement is entered into as of the Effective Date first written above.

SILICON VALLEY CLEAN WATER

DESIGN-BUILDER

Class A License No.: _____

(Witness)

(Witness)

(Printed name)

(Printed name)

Exhibit 1
SUPPLEMENTAL CONDITIONS



**SUPPLEMENTAL CONDITIONS TO
DESIGN-BUILD AGREEMENT**

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SUPPLEMENTAL CONDITIONS TO DESIGN-BUILD AGREEMENT

1. DEFINITIONS

1.1 “Agreement” means the Design/Build Agreement between Silicon Valley Clean Water and Design-Builder, dated _____, 2016, including the Supplemental Conditions to the Agreement and **Exhibits A** through **Exhibit M**.

1.2 “Allowance” is a non-binding, good faith, estimate of all Cost of Work attributable to the Allowance item carried in the Contract Price. An Allowance is necessary in certain circumstances because the item, components and/or systems are anticipated but undefined at the time that the Contract Price is set, and may require further development by the Engineer of Record, Owner, or other Design Professionals.

1.3 “Background Documents” means the planning and geotechnical reports provided to the Design-Builder and which can be accessed on the Owner website at . Background documents are not part of the Contract Documents.

1.4 “Base Design Criteria” is an outline of the Project requirements and scope, which was developed by the Owner. The Base Design Criteria provide a basis for the Design-Builder’s Contract Price, Project Baseline Schedule and design work. The Design-Builder is expected to expand on, elaborate, and enhance the Base Design Criteria in collaboration with Owner during Stage 1 to create a complete set of Design Criteria resulting in a Basis of Design Report to guide the remainder of the Work. The Design-Builder may propose changes to the Base Design Criteria. Any such changes must be acceptable to the Owner.

1.5 “Basis of Design Report” the report developed by Design-Builder over the course of Stage 1, which will govern all design work on the Project. The Basis of Design Report must be consistent with, and elaborate on, the Base Design Criteria provided by the Owner. The Basis of Design Report must be reviewed and accepted by the Owner.

1.6 “Proposal Documents” means all documents included or referenced in Silicon Valley Clean Water's Request for Proposal for the Gravity Pipeline Project.

1.7 “BIM Protocol” means the building information model protocol developed by the Design-Builder collaboratively with Owner and incorporated into the Agreement as **Exhibit H**.

1.8 “Building Information Model (“BIM”) is a parametric, computable representation of the Project design developed by the Design Build Team and includes construction details. As used in this Agreement, references to Building Information Model or BIM include the primary design model or models and all linked, related, affiliated or subsidiary models developed for design, detailing, fabrication, or construction of the Project pursuant to the protocol set forth in **Exhibit H**. The primary design model and subsequent models developed for design and construction are Contract Documents. Portions of the BIM prepared by the Subcontractors to illustrate how they will construct, fabricate or install the certain components of the Project are Submittals detailing how they will implement the Contract Documents and therefore, are not Contract Documents.

1.9 “Certificate of Substantial Completion” is a certificate prepared by the Owner's Representative that establishes the date of Substantial Completion of the Project, or portions of the Project, the responsibilities of the Owner and Design-Builder for security, maintenance, heat, utilities, damage to the construction work and insurance, and that fixes the time within which the Design-Builder will finish all items on the Final Punch List accompanying the certificate. The Certificate of Substantial Completion will be submitted to the Owner and Design-Builder for their written acceptance of responsibilities assigned to them in the certificate.

1.10 “Change Order” is a mutually agreed written order adjusting either the Design-Builders Contract Price and/or Contract Time for completing the Stage 2 Work in accordance with the Contract Documents. All Change Orders will be reviewed by the Owner's Representative and, if approved, executed by the Design-Builder and Owner.

1.11 “Confidential Meeting” meeting during the RFP step between a short-listed Respondent and Owner in a confidential setting to enable the Respondent to present its own specific approaches/creative solutions for the Project and receive feedback from Owner.

1.12 “Construction Documents” means the documents developed by Design-Builder that establish all requirements for construction Work during Stage 2 of the Project. The Construction Documents will be informed by, and be consistent with the Base Design Criteria, the Basis of Design Report, and the BIM.

1.13 “Construction Services” means all labor, materials, equipment and appurtenances provided by the Design-Builder and its Subcontractors for complete construction of the Project in strict accordance with the Contract Documents.

1.14 “Contract Documents” are set forth in Section 3.1 of the Agreement and include the Agreement inclusive of Exhibits, the Supplemental Conditions to the Agreement, the BIM, the Construction Documents and the Design Development Documents, to be developed by the Design-Builder, and all subsequent contract modifications issued after execution of the Agreement, such as Change Orders.

1.15 “Contract Price” is set forth in Section 7 of the Agreement and reflects the sum total of all compensation due to the Design-Builder for all Stage 1 and Stage 2 design and construction services under the Agreement. Compensation for Stage 1 will be on a lump-sum basis, as set forth in Section 7.2 of the Agreement. Compensation for Stage 2 will be on either a Guaranteed Maximum Price or lump-sum basis.

1.16 “Contract Time” is initially the estimated time to complete the work as defined in the RFP. During Stage 1 the Project Baseline Schedule to achieve the Final Completion of the Work, will be developed and memorialized in the Stage 2 Addendum. This Stage 2 Baseline Schedule is subject to extensions of time for permitted delays through approved Change Orders. The initial Project Baseline Schedule is attached to the Agreement as in **Exhibit 6**. to be replaced with a Stage 2 Baseline Schedule with execution of the Stage 2 Amendment.

1.17 “Daily Construction Reports” means the daily log kept by the Design-Builder that describes the weather, each Subcontractor's work on the site, the number of workers per trade, identification of equipment, construction work accomplished, problems encountered, and other similar relevant data such as accidents, service connections or disconnections, construction work stoppage,

delays, material and labor shortages, and any applicable orders or requests from governing authorities, and as further described in Section 5.17.10.1 of the Agreement.

1.18 "Design-Builder, Design-Build Entity or DB Entity" the entity that will enter into the PDB Contract with Owner and that will be the single point of accountability to Owner for delivering the services and the Project.

1.19 "Engineer of Record" is the entity retained by the Design-Builder as the lead Design Professional that is responsible for the design of the Project. The Engineer of Record for this Project is ???.

1.20 "Design-Build Subcontractors" means all Subcontractors that contract directly with the Design-Builder to perform design and construction services related to a specific trade or discipline.

1.21 "Design Build Team" includes the General Contractor, Design Professionals and Design-Build Subcontractors members of the Design-Builder performing design Services and Construction Services for the Project.

1.22 "Design Professionals" means the Engineer of Record, the structural engineer, and any other design consultants who are performing Design Services for the Project on behalf of Design-Builder but do not perform any Construction Services.

1.23 "Design Services" includes all required design work required to complete the Project, consistent with the Base Design Criteria and the Basis of Design Report..

1.24 "Effective Date" means the date that the Design-Builder and Owner entered into the Agreement, which is set forth on page 1 of the Agreement.

1.25 "Facilities" means all equipment, products, materials, controls, software, both individually and collectively as a completed system, designed to convey wastewater to the SVCW Wastewater Treatment Plant.

1.26 "Final Completion" occurs on the date when Design-Builder has completed all design and construction work in accordance with the Contract Documents; all Final Punch List items have been completed and accepted by the Owner; the Project has been commissioned; all close-out documentation required under the Project specifications has been transmitted to the Owner's Representative; the Owner's personnel have received the required training sessions regarding operation of the building and mechanical, electrical and plumbing systems, and all facilities have passed acceptance testing.

1.27 "Final Completion Date" This date will be subject to clarification and negotiation during Stage 1. **"Final Punch List"** is the punch list prepared by the Design-Builder in conjunction with the Owner after completing a Project walk-through upon Substantial Completion.

1.28 "Force Majeure Event" means an Act of God as defined under Public Contract Code section 7105, civil disobedience, an act of terror, or unavoidable casualties beyond the Design-Builder's control, and not due to any act or omission of the Design-Builder or its Design Professionals and/or Subcontractors, that necessarily extends the Final Completion Date.

1.29 "Geotechnical Baseline Report (GBR)" means the geotechnical report to be developed by the Design-Builder during Stage 1 of the Project in collaboration with the Owner. Both

Owner and Design-Builder will approve the GBR. The GBR will establish a common basis for evaluating risks and defining anticipated site conditions during construction. Once completed and approved by the Owner, the GBR will supersede the GDR.

1.30 "Geotechnical Data Report (GDR)" means the report summarizing all geotechnical data obtained by the Owner for the Gravity Pipeline Project to date. The GDR includes data from geotechnical borings and cone penetration soundings, data from previous geotechnical and geologic studies performed in the vicinity of the Project, and laboratory test results and other relevant data. The GDR will be made available to the Design-Builder as part of the Background Documents.

1.31 GP/FOP Coordination Plan means the submittal Design-Builder will be required to provide at different periods of Stage 1 of the Project, addressing the both an approach and schedule to coordinate design and construction work with the FOP Design-Builder, with particular emphasis on the shaft for the RLS where the TBM will be retrieved.

1.32 "Hazardous Materials and Substances" means any substance, product, waste, or other material of any nature that is or becomes listed, regulated or addressed under one or more of the following Environmental Laws: (1) CERCLA, (2) Hazardous Materials Transportation Act, (3) RCRA, (4) the Clean Water Act, (5) the Toxic Substance Control Act, (6) HSAA, (7) the California Porter-Cologne Water Quality Control Act, (8) the California Hazardous Waste Management Act, (9) the California Safe Drinking Water Act, (10) the California Waste Management Act, and (11) any other Federal or State law or local ordinance concerning hazardous, toxic or dangerous substances, wastes, or materials.

1.33 "Headworks" Facility that provides preliminary wastewater treatment processes consisting of influent screening and grit removal.

1.34 "Interim Project Schedules" is created by the Design-Builder and provides a 3 week look ahead of upcoming construction work, as well as documentation of construction work during the prior 3 week period.

1.35 "Key Personnel" means the Design-Builder's personnel identified as key to the overall success of the Project, and, at a minimum, including those positions defined as Key Personnel in the RFQ and RFP. The Design-Builder's Key Personnel are specifically identified in **Exhibit 5.B**.

1.36 "Minimum Qualification Requirements" The requirements set forth in this RFQ that must be satisfied in order for the SOQ to be evaluated and ranked according to the comparative evaluation criteria.

1.37 "Monthly Progress Reports" means the reports written by the Design-Builder and submitted to the Owner's Representative on a monthly basis to provide an overall status of the Project's progress, and any concerns or impacts. The Monthly Progress Report will comply with Section 5.19 of the Agreement.

1.38 "Owner" means Silicon Valley Clean Water.

1.39 "Owner-Elected Changes" are changes in the Work directed by the Owner that may impact the Contract Price, and Final Completion Date and are not: (i) reasonably inferable from the Base Design Criteria or Contract Documents; or (ii) required as a result of design errors and omissions.

1.40 "Owner's Furnished Equipment ("OFE")" means all fixtures, furnishings and equipment procured by the Owner.

1.41 "Owner's Suspension of Work" is when the Owner elects to suspend progress of Work on the Project under Section 16.2 of the Agreement.

1.42 "Party" or "Parties" means the Design-Builder or the Owner in the singular or the Design-Builder and Owner collectively who have executed the Agreement.

1.43 "Phase" refers to phasing of construction activities, where construction of one facility or area may commence prior to another. Phasing may be proposed by the Design-Builder during preconstruction subject to certain conditions which will be included in the Agreement and scope of preconstruction services.

1.44 "Preconstruction Survey" Design-Builder's Stage 2 deliverable comprised of a comprehensive preconstruction survey of the Work site as described in more detail in the Scope of Work.

1.45 "Product Data" includes illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Design-Builder's Subcontractors illustrating materials or equipment for some portion of the construction work.

1.46 "Program" means the Conveyance System Improvement Program.

1.47 "Project" means the Gravity Pipeline Project.

1.48 "Project Baseline Schedule" means the approved critical path schedule prepared by the Design-Builder for performance of all Stage 1 Work, and included in Exhibit 6 to the Agreement , as well as the approved critical path schedule for performance of all Stage 2 Work, as described in the Stage 2 Amendment.

1.49 "Proposer" Respondent that has been short-listed and subsequently submits a proposal.

1.50 "Punch List" is a list prepared by the Design-Builder, when Design-Builder considers a portion of the construction work substantially complete, that includes all items that are incomplete or unsatisfactorily finished and a schedule for their completion.

1.51 "Request for Information" ("RFI") means written requests prepared by the Design Builder and/or its Subcontractors requesting clarification about design or raising coordination issues that impact design, cost or schedule. RFIs will be handled internally by the Design-Builder, with copies to the Owner.

1.52 "Respondent" an entity responding to the RFQ by submitting an SOQ.

1.53 "Samples" means physical examples of materials, equipment or workmanship required by the Construction Documents that are used to establish standards by which the construction work will be judged.

1.54 "Shop Drawings" means drawings, diagrams, and other data specially prepared by the Design-Builder and/or its Subcontractors, manufacturers, suppliers or distributors to demonstrate the way in which materials and equipment will perform in accordance with the design illustrated in the Construction Documents. Shop Drawings will be approved by Design-Builder, but Owner will also review.

1.55 "Site Logistics Plan" will provide phasing, establish the areas of the site that will be used for trailers, deliveries, staging, ingress and egress, location of major pieces of equipment, storage containers, stockpiles of materials, clearways used for emergency access, environmental controls, trailers for Design-Builder and Owner, change house for miners, parking facilities for Design-Builders, employees, and Owner, access road, fence line, etc.

1.56 "Skilled and Trained Workforce" means a workforce that meets all of the requirements of the Public Contract Code at section 2601(d).

1.57 "Staffing Plan" means the plan submitted by the Design-Builder with its proposal.

1.58 "Stage" refers to stages of the PDB process, where Stage 1 includes preconstruction services, and Stage 2 is final design and construction.

1.59 "Step" refers to Owner's two-step procurement process for the Project, where Step 1 includes the RFQ and short-listing process, and Step 2 includes the RFP and final selection process. See [Section 6.3](#) for further detail.

1.60 "Subcontractor" means all contractors under direct contract with Design-Builder for performance of a portion of the construction work as well as any tier-subcontractors. The term subcontractor includes Design-Build Subcontractors.

1.61 "Submittals" includes Shop Drawings, Product Data, Samples and similar documentation required by the Project specifications or other Construction Documents.

1.62 "Substantial Completion" means milestone establishing when certain phased portions of the Project are complete, other than minor Punch List, and those certain portions have received all required governmental approvals for use and occupancy of portions of the facility by Owner for staffing, stocking and training.

1.63 "Substantial Completion Date" refers to Substantial Completion of the entire Project. The Substantial Completion Date will be established in the Stage 2 Amendment. **"Supplemental Conditions"** means the Supplemental Conditions to the Agreement.

1.64 "The Parties" means Design-Builder and Owner.

1.65 "TIO" means Testing, Inspection and Observation.

1.66 "Unforeseen Site Conditions" or "Differing Site Conditions" means discovery of unknown, unforeseen or differing site conditions, as defined in Public Contract Code section 7104, any unknown existing conditions in concealed spaces of the renovated portions of the Project. The Geotechnical Baseline Report (GBR), developed by the Design-Builder during Stage 1, shall establish the known site conditions prior to commencement of Stage 2 work.

1.67 "Work" means all necessary programming, design, permitting, construction, construction administration, project management and commissioning required to complete the Project, including all labor, materials, equipment, tools, and appurtenances necessary to complete the Construction Work described in, or reasonably inferable from, the Contract Documents.

2. ACRONYMS

- 2.1** BIM – Building Information Modeling
- 2.2** CID – Cascade Integration & Development
- 2.3** DB – design-build or design builder
- 2.4** DBB – design-bid-build
- 2.5** EIR – Environmental Impact Report
- 2.6** FOP Project – Front-of-Plant Project
- 2.7** GMP – Guaranteed Maximum Price
- 2.8** GP Project – Gravity Pipeline Project
- 2.9** Owner – Owner's Representative
- 2.10** OA – Owner's Advisor
- 2.11** OPCC – Opinion of Probable Construction Cost
- 2.12** PDB – progressive design-build or progressive design builder
- 2.13** RESCU – Regional Environmental Sewer Conveyance Upgrade
- 2.14** RFQ – request for qualifications
- 2.15** RFP – request for proposals
- 2.16** RLS – Receiving Lift Station
- 2.17** SOQ – statement of qualifications
- 2.18** Owner – Silicon Valley Clean Water
- 2.19** TBM – Tunnel Boring Machine
- 2.20** WWTP – wastewater treatment plant

3. WORK RESTRICTIONS

3.1 Work Hours. All construction work will be performed between 7:00 a.m. and 7:00 p.m. unless further restricted by permit requirements or CEQA mitigation measures. Design-Builder will provide Owner with written notice for any construction work that will need to be performed after hours. All after hour construction work requires Owner's written approval prior to commencement.

3.2 Noise. All construction work will be performed with minimal disruption and noise and in accordance with CEQA mitigation requirements.

3.3 Environmental Control Plan. Before commencing construction work, the Design-Builder will prepare and submit an environmental control plan to the Owner's representative that, at a minimum, includes sources and mitigation measures for dust and air pollution, odors, vibrations and biological as defined in the project EIR. **Staging and Storage.**

3.3.1 Material will be stored only in the areas indicated on the Site Logistics Plan. Limited short term staging areas will be designated in the Site Logistics Plan.

3.4 In the event the Owner determines that the construction activities impact Owner's operations, upon notice from Owner, Design-Builder will stop all construction activities and will collaborate with Owner to reschedule the activity. See section 16.2 of the Design-Build Agreement.

4. SOILS INVESTIGATIONS AND HAZARDOUS MATERIALS

4.1 The Design Builder is required to examine the site before submitting its proposal for the Stage 2 Amendment per Section 5.2 of the Agreement.. Design-Builder may not rely exclusively on Background Documents to determine the status of soil conditions.

4.2 Hazardous Materials and Substances. The Design-Builder is responsible for the proper discovery, handling, removal and disposal of the “**Hazardous Materials or Substances**” that were pre-existing at the Project site before commencement of construction. The Design-Builder is also responsible for all Hazardous Materials and Substances that it either requires through the Project design specifications or that are brought onto the Project site by its employees and/or Subcontractors.

4.2.1 Unsafe or Hazardous Conditions. If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from any Hazardous Materials or Substances encountered at the Project site, the Design-Builder will stop any part of the Work that it deems unsafe until corrective measures have been taken. If the Design-Builder fails to take corrective measures, the Owner may do so. Failure on the part of the Owner to stop unsafe practices, or the Owner's efforts to take corrective measures after the Design-Builder fails to do so, does not relieve or diminish the Design-Builder's safety responsibilities.

4.2.2 Verification. Upon discovery of any Hazardous Material or Substance that has not previously been identified in the Design-Builder's Hazardous Material Survey, the Design-Builder will immediately notify the Owner's representative and stop all construction work in the area if necessary. The Owner will retain the services of a licensed laboratory to verify the presence or absence of the Hazardous Material or Substance not initially identified in the Geotechnical Baseline Report. If a Hazardous Material or Substance is discovered that was not identified in the Geotechnical Baseline Report, the Owner will contact its licensed laboratory to verify that the condition has been rendered harmless before construction work recommences in the affected area. The Design-Builder may be entitled to an adjustment in the Contract Time if the Hazardous Material or Substance is deemed an Unforeseen or Differing Site Condition and impacts the Final Completion Date of the Project. If the Hazardous Material or Substance was pre-existing the Owner will pay for the services of the licensed laboratory. The Design-Builder will reimburse the Owner for the services of the licensed laboratory if the Hazardous Material or Substance was brought on-site by the Design-Builder or any of its Subcontractors or vendors.

5. SAFETY

5.1 Signs. The Design-Builder will erect and maintain, as required by existing conditions and performance of the construction work, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent sites and utilities.

5.2 Weekly Safety Meetings. The Design-Builder will hold weekly meetings with its Subcontractors to review Subcontractor compliance with the Design-Builder's Health and Safety Program.

5.3 Daily Jobsite Walks. The Design-Builder will also conduct daily jobsite inspections to verify that the construction work is being performed in a safe and workmanlike manner and in accordance with the Design-Builder's Health and Safety Program. The Design-Builder will provide written notice to its Subcontractors demanding immediate correction of any known safety violation.

6. QUALITY ASSURANCE AND QUALITY CONTROL

6.1 Quality Control Plan. The Design-Builder will prepare and submit to the Owner's representative for approval a plan that describes the procedures and methods the Design-Builder will utilize to control the quality of the construction work. The Quality Control Plan must be approved before the start of construction. The Owner reserves the right to require revisions of the Quality Control Plan that are necessary to ensure the specified quality of the construction work. The Design Builder will assign appropriate site personnel to oversee quality control. No change in the Quality Control Plan will be implemented without prior Owner approval. At a minimum the Quality Control Plan will provide information regarding the following:

6.1.1 Quality control supervision and document control.

6.1.2 Identification of personnel for required training and qualification activities.

6.1.3 Procedures for testing and inspections that identify individual inspection or testing points and acceptance criteria, and include provisions for recording results and the responsible inspection/test personnel.

6.1.4 Procedures for identifying what applicable technical and quality requirements will be required of vendors supplying materials, parts and services to ensure compliance with the Contract Documents.

6.1.5 Procedures for receiving, inspecting and accepting materials and equipment. The procedures will include, at a minimum, examination of the physical condition for compliance with the Contract Documents, purchase order and/or subcontract agreement, and identifying and processing any non-conforming goods.

6.1.6 Provisions for identifying and timely remedying non-conforming or defective construction work.

6.1.7 Documentation control to maintain records of the activities included in the Quality Control Plan. All documentation will be submitted to the Owner as part of the close-out documentation for this Project and therefore must be logically organized and indexed for reference.

6.2 Design Quality Control Plan. The Design-Builder will prepare and submit to the Owner for approval a Design-Quality Control Plan that describes the procedures and methods the Design-Builder will utilize to control the quality of the construction work. The Design Quality Control Plan must be approved before the start of construction. The Owner reserves the right to require revisions of the Design Quality Control Plan that are necessary to ensure the specified quality of the construction work. The Design Builder will assign appropriate site personnel to oversee quality control. No change in the Design Quality Control Plan will be implemented without prior Owner approval.

6.3 Manufacturer's Field Services. To the extent required, the Design-Builder will engage in a factory-authorized service representative to inspect field-assembled components and equipment installation, including service connections. All manufacturers' field service reports must be in writing and included as part of the records turned over to Owner during close-out.

6.4 Quality Control Reports. The Design-Builder will keep daily Quality Control Reports throughout the duration of the construction process certifying that the relevant area of the construction work has been inspected. The Quality Control Reports will be prepared, signed and dated by the personnel identified as the supervisor in the Quality Control Plan and will include, at a minimum, the following information:

6.4.1 Identification of the material, equipment or component that was inspected and indicate, if applicable, if the Submittals have been reviewed and approved by the Design-Builder.

6.4.2 Indicate that materials and/or equipment comply with the requirements of Section 5.19.9 of the Agreement and are properly stored, if not yet installed.

6.4.3 Indicate that the construction work has been coordinated under Sections 5.19.4 and 5.19.5 of the Agreement, that all required preliminary work has been inspected by Quality Control personnel, was properly performed, and that the area is ready to receive subsequent construction work. If the construction work is not acceptable, provide a written description of any re-work required in the area inspected with an explanation of the cause of the re-work (including which Subcontractors are involved), any cost involved in the required re-work, and the expected completion date of the required re-work.

6.4.4 Results of any off-site testing or quality control work and any required further actions.

6.4.5 Other necessary information including, directions received, quality control problem areas, deviations from the Quality Control Plan, construction deficiencies encountered, Quality Control meetings held, acknowledgement that as-built drawings and BIM have been updated (if applicable), corrective direction given by Quality Control personnel, and corrective action taken by the Design-Builder.

6.5 Quality Control Design Reports. The Design-Builder will keep daily Quality Control Design Reports throughout the duration of the construction process certifying that the relevant area of the construction work has been inspected. The Quality Control Design Reports will be prepared, signed and dated by the personnel identified as the supervisor in the Design Quality Control Plan. Quality Control Design Reports should be submitted as part of each design submittal.

6.6 Test and Inspection Logs. The Design-Builder will maintain an on-site inspection log that is accessible by the Owner. The log will document all tests and inspections performed at the

Project during construction. In addition, the Design-Builder will prepare a sequentially numbered record of tests and inspections. The record of tests will include the following information:

6.6.1 Request for Inspection.

6.6.2 Date test or inspection was conducted.

6.6.3 Identity of testing agency or special inspector.

6.6.4 Description of the construction work tested or inspected.

6.6.5 Identification of any drawings or applicable details on the Construction Documents or Submittals that were used during testing and inspection.

6.6.6 Date that the test or inspection was concluded and the date that the results were transmitted to Owner.

7. TEMPORARY FACILITIES

7.1 Temporary Electricity. Design-Builder will provide, maintain, and pay for temporary electrical power at the Project site for construction purposes and trailers. In certain situations, permanent power may be available through Owner, but the Design-Builder must provide all necessary wiring and appurtenances for connection to Owner's system. Design-Builder must meter all connections to Owner's system to determine usage rates.

7.2 Temporary Communications. The Design-Builder will provide, maintain, and pay for all applicable communications and data service connections for field offices pursuant to **Exhibit ??** of the Agreement, including all installation and connection charges.

7.3 Temporary Water. The Design-Builder will provide, maintain, and pay for all required potable water required for construction field personnel as well as water required for and in connection with the construction operations such as dust control. Unnecessary waste of water will not be permitted. The Design-Builder must use special hydrant wrenches for opening and closing fire hydrants in lieu of pipe wrenches.

7.4 Temporary Fences. The Design-Builder will provide all necessary temporary fencing and gates required for the Project site. Temporary fencing will be subject to restrictions in the use permit. The Design-Builder will maintain all fences through Final Completion of the Project. Gates are to remain closed and locked during off-hours.

7.5 Temporary Sanitary Facilities. Provide and maintain all required temporary toilets for use of all design and construction personnel and field labor through Final Completion of the Project. Location of temporary sanitary facilities will be approved by Owner's Representative prior to delivery. The Design-builder will provide at least 1 temporary toilet facility for every 20 persons. The Design-Builder will cause all design and construction personnel (including field labor) to use temporary sanitary facilities rather than Owner's facilities. All temporary sanitary facilities will comply with the Department of Health standards.

7.6 Temporary Barriers and Enclosures. Provide barriers to prevent unauthorized entry to construction areas, to allow for Owner's safe use of the Project premise, and to protect existing facilities and adjacent properties from damage from construction operations per Section 8.

7.7 Water Control. Design-Builder will grade the Project site as required by the civil design included in the Construction Document. During construction, the Design-Builder will maintain all trenches and excavated areas free from water accumulation and will provide the necessary barriers to protect the Project site from ponding, running water and soil erosion. The Design-Builder will provide for increased drainage of storm water and any water that may be applied or discharged on the Project site during performance of the construction work. All drainage facilities will be adequate to prevent damage to the construction work, Project site, and adjacent property. Design-Builder will construct dikes, if necessary, to divert any increased runoff from entering adjacent property (except in natural channels), to protect Owner's facilities and the construction work, and to direct water to drainage channels or conduits. Design-Builder will provide ponding as necessary to prevent downstream flooding. All activities shall be consistent with the Storm Water Pollution Prevention Plan ("SWPPP"), as prepared by the Design-Builder.

7.8 Pollution Control. The Design-Builder will provide a plan that meets the requirements of California Storm Best Management Practices (Stormwater Quality Task Force, 1993) to prevent the pollution of drains and watercourses by sanitary wastes, sediment, debris, and other substances and/or soil erosion during construction operations:

7.8.1 No sanitary wastes will be permitted to enter any drain or watercourse other than sanitary sewers. No sediment, debris, or other substance will be permitted to enter sanitary sewers without authorization of the receiving sanitary sewer service, and all possible best management practices will be taken to prevent materials from entering into any drain to watercourse.

7.8.2 In the event that dewatering of excavations is required, Design-Builder will obtain the necessary permits from local governmental authorities for discharge of the dewatering effluent. The Design-Builder will be responsible for assuring that water quality of the discharge meets the appropriate permit requirements prior to any discharge.

7.9 Erosion Control. As part of the civil design, the Design-Builder will provide an erosion control plan that is consistent with SWPPP to prevent soil erosion at the Project site and adjacent property resulting from construction operations. Effective measures will be initiated before commencement of clearing, grading, excavation, or other operations that will disturb the natural protection:

7.9.1 Erosion and sedimentation control practices will include installation of silt fences, straw wattle, soil stabilization, re-vegetation, and runoff control to limit increases in sediment in stormwater runoff, including but not limited to, detention basins, straw bales, silt fences, check dams, geo-fabrics, drainage swales, and sand bag dikes.

7.9.2 The construction work will be scheduled to expose areas subject to erosion for the shortest possible time, and natural vegetation will be preserved to the greatest extent practicable. Temporary storage and construction buildings will be located, and construction traffic routed, to minimize erosion. Temporary fast-growing vegetation or other suitable ground cover will be provided as necessary to control runoff.

7.10 Construction Equipment and Aids. Design-Builder will furnish, install, maintain, and operate all construction equipment required by the performance of the construction work. Construction aids include elevators and hoists, cranes, temporary enclosures, swing staging, scaffolding and temporary stairs. When sandblasting, spray painting, spraying of insulation, or other activities inconveniencing or dangerous to property or the health of design or construction personnel or the public

are in progress, Design-Builder will enclose the area of activity to contain the dust, over-spray, or other hazard.

7.11 Traffic Control. The Design-Builder will provide a traffic control plan in accordance with the California Department of Transportation Traffic Manual as part of its Site Logistics set forth in **Exhibit B-9**. The Design-Builder will submit its traffic control plan to the appropriate agency for approval before commencement of the construction work:

7.11.1 Traffic control will include signs, warning lights, reflectors, barriers, and other necessary safety devices and measures, including sufficient flagmen to direct vehicular traffic through the construction areas. No material or equipment will be stored or parked where it will interfere with the free and safe passage of public traffic. Design-Builder will remove all equipment and other obstructions from the public right-of-way at the end of each day's work, and at other times when construction operations are suspended for any reason.

7.11.2 All traffic associated with construction operations, including without limitation delivery and mail trucks, will enter Design-Builder's access gate and road. Design-Builder will provide signs directing construction and delivery traffic to this gate and will take all necessary steps to minimize inconvenience to the Owner and the general public throughout the construction process. No driveways or private roads will be blocked without notifying the property owner, and access must be restored during all non-working hours.

7.11.3 Safe access must be maintained for pedestrian traffic throughout any public work area at all times.

7.11.4 At least one lane of traffic in each direction on all roads used on the Project must be kept open at all times unless prior approval is provided by the Owner and any affected agency. No roads will be blocked or made inaccessible, due to Design Builder's construction work, without prior written consent of the Owner and the affected agencies in the form of an encroachment permit. Under no circumstances will the Design-Builder block or obstruct fire lanes at any time.

7.12 Removal of Temporary Facilities and Equipment. The Design-Builder will remove all temporary utilities, equipment, facilities, and materials before final inspection of the Project and clean and repair any damage caused by installation or use of temporary work restoring existing facilities to their original conditions.

8. SURVEYING

8.1 Field Engineering. The Design-Builder will employ a California State licensed civil engineer or land surveyor to provide field engineering services to establish benchmarks and line and grade for horizontal and vertical control.

9. DEMOLITION

9.1 Demolition Plan. Prior to commencing any required demolition work, the Design-Builder will submit a plan to the Owner's Representative for review and approval. Under no circumstances, can demolition interrupt the Owner's operations. The Design-Builder's plan, at a minimum, will address the following:

9.1.1 Identify areas that will require demolition and provide a schedule for those demolition activities that is coordinated with the Owner's operations and the approved Project Baseline Schedule.

9.1.2 Inventory materials and equipment that will be salvaged during demolition and whether the salvaged materials and equipment will be reused, returned to the Owner, or sold at fair market value on behalf of the Owner.

9.1.3 Document procedures for protecting the existing structure and/or building materials, equipment and components that are remaining, as well as protection plans for adjacent property and persons that comply with the requirements in Section 8.

9.1.4 Document procedures for proper ventilation, noise, and dust control during demolition operations and clean-up after demolition is completed.

9.1.5 Document procedures for required disruption of any utility service as a result of demolition activities and a record of any utilities that are capped during the process. Any required shut-off or interruption of service must be approved in writing by the Owner 14 business days in advance, and all necessary water, emergency power, etc., must be in place prior to shut-off or disruption.

9.1.6 Provide for all required temporary sheeting, shoring, bracing or other structural support necessary to ensure stability of the existing structure or adjacent properties and prevent movement, settlement or collapse during demolition operations. All required temporary structural support will be designed by a California licensed structural or civil engineer.

9.1.7 Document procedures to deal with encountering Hazardous Materials or Substances that comply with the requirements of Section 3.2 and procedures regarding Unforeseen or Differing Site Conditions that comply with Section 18.13.

9.1.8 Document procedures for hauling away and disposal of any demolished materials and equipment. The procedures should include, among other things, requirements for refrigerant recovery under Environmental Protection Agency, a list of all required hauling permits, requirements for hauling and disposing of Hazardous Waste, volatile organic compounds or any other substance that is regulated by Health and Safety Code, the Bay Area Air Quality Management Owner "BAAQMD" or any other governmental agency that regulates the proper hauling and disposal of certain materials and substances.

9.1.9 Document procedures to ensure that removal and replacement of equipment will not void any existing warranties.

9.1.10 Require a survey of existing conditions and video or photographic documentation before commencement of the demolition activity to demonstrate existing conditions of adjacent areas or property.

9.2 Permits and Fees. The Design-Builder will secure all required hauling permits. The Owner will reimburse the Design-Builder at cost, for all permits and dumping fees as part of the Cost of Work.

10. PROTECTION OF WORK AND PROPERTY

10.1 Design Builder will be responsible for providing a safe place for the performance of the construction work and for the physical conditions and safety of areas affected by the construction work. Design Builder will take all necessary precautions to provide for the safety and protection of all persons who may come in contact with the construction work and for all property within or adjacent to the Project site including adequate precautions to protect existing sidewalks, curbs, pavements, utilities, and other adjoining property and structures. Design Builder will repair any damage caused by its operations at its own expense and will provide protection to prevent damage, injury or loss to:

10.1.1 Employees and other persons at the Project site.

10.1.2 Equipment, materials, and vehicles stored at the site or off-site if under the care, custody, or control of the Design-Builder or its Design Professionals or Subcontractors.

10.1.3 Existing structures, property and the work of others when carrying out Design Builder's Work.

10.2 These precautionary measures will apply continuously and not be limited to normal working hours.

10.3 If damage to persons or property occur as a result of the construction work, Design Builder will be responsible for proper investigation, documentation, including video or photography, to adequately memorialize and make a record of what transpired. The Owner will be entitled to inspect and copy any documentation, video, or photographs.

11. WORKERS AND WORKERS' COMPENSATION

11.1 Design Builder will at all times enforce strict discipline and good order among its employees. Design Builder will not employ on the Project any unfit person or unskilled labor.

11.2 Design Builder and its Subcontractors are required to secure the payment of compensation of its employees in accordance with Labor Code section 3700. Before commencing the Work, the Design Builder, its Design Build Team members, and its Subcontractors will sign and file a certification with the Owner under Labor Code section 1861 stating the following:

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the any work or services under the Design-Build Agreement or any subcontract or design service agreements.

12. CHANGE IN NAME OR LEGAL ENTITY

12.1 If a change in name or nature of the Design-Builder's legal entity is anticipated, the Design Builder will notify the Owner to ensure that the change will be properly reflected on the Agreement.

13. PROHIBITED INTERESTS

13.1 No public official or representative of the Owner who is authorized in such capacity and on behalf of the Owner to negotiate, supervise, make, accept, approve, or to take part in negotiating, supervising, making, accepting or approving any engineering, inspection, construction or material supply contract or any subcontract in connection with design and construction of the Project, will be or become directly or indirectly interested financially in this Agreement.

14. LAWS AND REGULATIONS

14.1 Design Builder will give all notices and comply with all laws, ordinances, rules and regulations bearing on conduct of Work. If Design Builder observes that the Contract Documents are at variance with any laws, ordinances, etc., Design Builder will promptly notify the Owner's Representative, in writing, and any necessary changes will be adjusted. If Design Builder performs any Work knowing it to be contrary to such laws, ordinances, rules and regulations, and without notice to the Owner's Representative, it will bear all costs associated with any required corrections or repairs.

15. BUILDING INFORMATION MODELING

15.1 Building Information Modeling Workshop. The Design Build Team will meet and develop detailed protocols for the use of Building Information Modeling on this Project collaboratively with Owner, which will be documented in the BIM Execution Plan that will be incorporated into the Project Manual as Tab 6. Among other things, the protocols developed will:

15.1.1 Specify where and how the Model will be maintained including the parties with substantive responsibility for controlling the information within specific models or model elements;

15.1.2 Provide minimum hardware and software requirements, including the software (including software revision or build date if applicable) that will be used to develop the Model or Models;

15.1.3 Specify protocols for naming conventions, data structure, version control, roll-back, gate keeping, and archiving;

15.1.4 Establish a common coordinate system and conventions as to units;

15.1.5 Specify what building components or systems will be modeled and the level of detail that will be modeled and incorporate appropriate allowances for differing construction tolerances. Designers are required to design to accurate dimensions in the Model;

15.1.6 Specify when and how information regarding constructability and cost will be derived from the Models and provided to the designers to inform design;

15.1.7 Specify when and how existing site information is incorporated into the Model;

15.1.8 Specify how RFIs, clarifications, Shop Drawing and Submittal information will be reviewed and incorporated into the Model;

15.1.9 Specify when and how clash detection/conflict resolution sessions will occur;

15.1.10 Determine what information is more efficiently developed and conveyed using traditional 2D design tools and develop protocols for assuring consistency between the BIM and ancillary 2D information;

15.1.11 Specify how the BIM will be updated and function as a Record Model; and

15.1.12 Specify what design information, if any, will be developed or maintained outside of the BIM.

15.1.13 The BIM workshop will be scheduled by the Model Administrator early in the design process. Any disagreement regarding protocols will be decided by the Owner's Representative. The Model Administrator described as in Section 15.2 will document the decisions reached in the BIM Execution Plan.

15.2 Model Administrator. Each Design Build Team Member is responsible for maintaining any individual design or analysis models and providing their modeling information, at appropriate intervals, to the administrator of the Model ("Model Administrator"). The Design Builder will select a Model Administrator who is responsible for receiving modeling information from the Design Build Team and incorporating the information into a master BIM. Unless otherwise agreed, the Model Administrator will host and manage the modeling information.

15.3 Status of the Model. Design Builder will construct the Project in accordance with the BIM that complies with the Base Design Criteria, Basis of Design Report, and all Specifications and other Contract Documents subject to any subsequent modifications. Elements necessary for a fully functional Project, but not modeled due to their size or level of detail, will be provided by the Design Builder as part of its Construction Work with a level of quality consistent with the Base Design Criteria, Basis of Design Report, and all approved Permitted Drawings and Specifications. It is anticipated that some design information, such as construction details, will not be incorporated into the BIM, but will be prepared as conventional 2D drawings or CAD files. Subject to the agreed level of modeling, the Model provides controlling dimensional information except where 2D Drawings are specifically intended to be prepared at a greater level of accuracy than in the Model. Some design information will only be contained in the written Specifications. The BIM, the 2D Drawings, and the written Specifications are all Contract Documents.

15.4 Submission of Signed and Stamped Drawings. 2D Drawings, calculations and Specifications must be generated, reviewed, sealed, and submitted to reviewing agencies and applicable Governmental Authorities. The Engineer of Record and Consultants and the Design-Build Subcontractors will each be responsible for, and will sign and stamp, the Drawings, Specifications and calculations prepared by them. To the greatest extent possible, the 2D Drawings will be generated from the Model.

15.5 Miscellaneous BIM Issues.

15.5.1 Participation by Design Builder or any Subcontractor or supplier, other than Design-Build Subcontractors, in contributing data or advice for use in the BIM will not be deemed the provision of Design Services.

15.5.2 A person may only rely on the substantive information contained within any data in the BIM to the extent appropriate to the level of detail required of the BIM at the time.

15.5.3 Any corrections or repairs to the BIM as a result of the failure of the Engineer of Record, Design Builder, or those for whom they are responsible to comply with the provisions of the BIM Execution Plan will be a Cost of the Work without an increase in the Contract Price or Contract Time.

16. PARTNERING.

The Owner will promote the formation of a "Partnering" relationship with the Design-Builder in order to effectively complete the contract to the benefit of both parties. The purpose of this relationship will be to maintain cooperative communication and mutually resolve conflicts at the lowest possible management level.

The Design-Builder may request the formation of a "Partnering" relationship by submitting a request in writing to the Owner after approval of the Agreement, with details of the proposed partnering structure and procedures. If the Design-Builder's request for "Partnering" is approved by the Owner, scheduling of a "Partnering" workshop, selecting the "Partnering" facilitator and workshop site, and other administrative details shall be as agreed to by both parties.

The costs involved in providing a facilitator and a workshop site will be borne equally by the Owner and the Design-Builder. The Design-Builder will pay all compensation for the wages and expenses of the facilitator, and the expenses for obtaining the workshop site. The Owner's share of such costs will be reimbursed to the Design-Builder in a change order written by the Owner. Markups will not be added. All other costs associated with the "Partnering" relationship will be borne separately by the party incurring the costs.

The establishment of a "Partnering" relationship will not change or modify the terms and conditions of the contract and will not relieve either party of the legal requirements of this contract.

17. DISPUTE RESOLUTION

There are multiple levels of dispute resolution applicable to the Work under the Agreement, which must be satisfied in sequence, as follows: 1) Change Order procedures pursuant to Section 9.1 of the Agreement; 2) Disputes Resolution Board procedures outlined in this Section 17; and 3) Public Contract Code Claims Procedures summarized in Section 18.11 of these Supplemental Conditions.

As a prerequisite to submitting a matter to the Disputes Resolution Board ("DRB"), Design-Builder must first comply with all Change Order procedures in section 9.1 of the Agreement.

17.1 Disputes Resolution Board. The Parties agree to establish a standing Disputes Resolution Board ("DRB") to assist in the resolution of disputes arising out of the Work of this Contract. In addition, the Parties will meet with the DRB on a quarterly basis to keep the DRB informed as to Project status, issues, and potential disputed matters. A three-party agreement shall be executed by the Owner, the Design-Builder, and members of the DRB for the purpose of formalizing the creation of the DRB. The three-party agreement shall be executed in the form and format as established by the Owner and Design-Builder.

The DRB will be available to both Parties to assist in and facilitate the timely and equitable resolution of disputes. Nevertheless, the Owner and Design-Builder shall first attempt to resolve potential disputes without resorting to the DRB process.

A dispute may be referred to the DRB by the Owner or the Design-Builder. The DRB shall fairly and impartially consider disputes referred to it, and shall provide written recommendations to the Owner and the Design-Builder to assist in the resolution of these disputes.

All DRB recommendations shall be non-binding unless both the Design-Builder and Owner agree in writing to accept the recommendation.

17.2 Conditions Precedent; Referral to DRB

17.2.1 Conditions Precedent

Prior to submitting any dispute matter to the DRB for resolution, the Design-Builder shall first seek to resolve the matter with the Owner by completing all Change Order procedures pursuant to section 9.1 of the Agreement prior to submitting a matter to the DRB.

17.2.2 Referral to DRB

If the Design-Builder elects to refer a claim to the DRB, it must do so within 60 calendar days from the date the Design-Builder completes all Change Order procedures pursuant to Section 9.1 of the Agreement. The Owner may also refer matters to the DRB at any time after Change Order procedures have resulted in a dispute.

In the event the Design-Builder fails to refer the claim to the DRB within the specified time period, the Design-Builder shall be deemed to have waived any and all rights it may have to object to or to seek DRB review of the Owner's decision, or to submit a construction claim pursuant to Section 18.11 of these Supplemental Conditions, or to initiate a subsequent civil action regarding the claim. This waiver shall occur whether or not there is any showing of prejudice to the Owner resulting from the delay in filing the objection.

Any recommendation of the DRB is non-binding. Nevertheless, Design-Build must complete all Change Order procedures, and DRB informal or formal hearing processes prior to filing a construction claim pursuant to Section 18.11 of these Supplemental Conditions.

17.2.3 Unresolved Disputes at Final Acceptance

As a condition of Final Acceptance, the Design-Builder shall identify with its final invoice any and all unresolved, and unwaived, disputes or claims that involve the Owner. In the event that the Design-Builder fails to provide such a list, the Design-Builder shall be deemed to have waived any and all rights it may have, or have had, to make any such claim against the Owner under this Contract, notwithstanding that such waiver shall not extend to any disputes that arise after Final Acceptance with respect to obligations of the Parties under this Contract after Final Acceptance.

17.2.4 Continuance of Work During Dispute

At all times during the course of any dispute or claim resolution process, the Design-Builder shall continue to perform the Work without delay; shall conform to any of the Owner's responses, decisions, or orders; and shall be governed by all applicable provisions of the Agreement. The Design-Builder shall keep records of any disputed Work in sufficient detail to enable resolution in accordance with applicable provisions in this Agreement.

17.2.5 Matters Ineligible for DRB Procedures

The following matters ("Ineligible Matters") are ineligible for resolution through the DRB procedures specified in this article:

- a. Any matters that the Contract Documents expressly state are final, binding, or subject to a disputes resolution procedure different from that specified in this Section 17;
- b. Any matters relating to the scope or applicability of indemnification provided under the Contract Documents;
- c. Any claim for injunctive relief;
- d. Any claim against an insurance company;
- e. Any claim arising solely in tort;
- f. Any claim involving a third party unless the third party has agreed to the jurisdiction of the DRB;
- g. Any dispute regarding failure to comply with equal employment opportunity requirements or requirements of the Agreement relating to Small Business Enterprises, Disadvantaged Business Enterprises, or Disabled Veteran Business Enterprises;
- h. Any claim for, or dispute based on, remedies expressly created by statute; and
- i. Any dispute that is actionable only against a surety.

Ineligible Matters shall be submitted for judicial resolution by filing a complaint in a court of competent jurisdiction.

17.2.6 Membership of DRB

The DRB will consist of:

- a. One member selected by the Owner, and subject to the approval of the Design-Builder;
- b. One member selected by the Design-Builder, and subject to the approval of the Owner;
and
- c. A third member, selected by the first two members, who shall be knowledgeable in construction law, and subject to approval by both the Owner and the Design-Builder. The third member will act as a Chairperson for all DRB activities.

All DRB members shall be experienced with the type of design and construction involved under this Agreement including tunneling and pipeline construction, and in interpretation of construction contract documents. The goal is to select a neutral DRB with complementary and well-rounded experience in the type of Work involved in this Project. It shall be imperative each DRB member perform as a neutral, show no partiality to either the Design-Builder or the Owner, disclose any potential conflicts of interest, and be mutually acceptable to both the Design-Builder and the Owner.

17.2.7 Criteria and Limitations for Membership on the DRB

a. Unless the Parties expressly agree in writing otherwise, the following provides the criteria and limitation for membership on the Dispute Resolution Board:

1. No member shall be an affiliate of or otherwise have a financial interest in the Design-Builder, any Subcontractor or Design-Builder Team Member, the Project, the Owner, or in the outcome of any dispute decided hereunder, except for payment for services on the DRB.
2. Except for fee-based consulting services on other projects, no member shall have ever been previously employed by the Owner, Design-Builder, or any affiliate (including any work for such entity through an arrangement with their direct employer), except for fee-based consulting services on other projects, which are disclosed to the Parties, and no member shall have otherwise had financial ties to any Party during the 2 years preceding their engagement for the DRB.
3. No member shall have had a professional or personal relationship with the Design-Builder, any Subcontractor, the Owner, or an employee of any of the foregoing of a nature which could affect his/her ability to impartially resolve disputes.
4. No member shall have had substantial prior involvement in the Project of a nature which could affect their ability to impartially resolve disputes.
5. No member shall have a conflict of interest under the Owner's Organizational Conflict of Interest Policy.

b. Before their appointments are final, the first two prospective members shall submit complete disclosure statements for the approval of both the Owner and Design-Builder. Each statement shall include:

1. A resume of experience;
2. A declaration describing all past, present, and anticipated or planned future relations to this Contract and the Project, and with all entities involved in the design and construction of the Project, as well as any other possible or potential conflicts of interest; and
3. Disclosure of all relationships with any Parties or persons otherwise involved in the Project.

The third DRB member shall supply a similar statement to the first 2 DRB members and to the Owner and Design-Builder before their appointment is final.

The duty to disclose conflicts of interest shall be continuing. Members of the DRB shall promptly notify the Owner and the Design-Builder not only of any possible or potential conflict of interest that exists at the time they are appointed to the DRB, but also any possible or potential conflict of interest that they become aware of while they are serving on the DRB.

During each member's tenure on the DRB, neither Party shall contact a DRB member regarding employment or in an ex parte manner to seek advice or consultation. If either Party makes such inappropriate contact with a DRB member, the DRB member shall report the contact to the other Party,

and the other Party may in its sole discretion terminate the DRB process. If terminated, the Parties shall re-commence the DRB process anew with the selection of all new members.

The Owner and the Design-Builder shall each recommend its respective DRB candidate within 3 months after award of the Agreement. The Owner and Design-Builder shall both approve the recommended candidates. If necessary, a Party shall recommend another candidate until both Parties agree upon the 2 members. Immediately after both Parties approve the initial 2 members, the Owner and Design-Builder shall notify their members to begin selection of the third member. The initial 2 members shall ensure that the third member meets all of the criteria listed above. A third member candidate shall be submitted to the Parties within 30 days after the selection of the initial 2 members and approved by the Parties within 30 days thereafter unless otherwise agreed. In the event of an impasse between the 2 DRB members in the selection of the third member, that member shall be selected by mutual agreement of the Owner and the Design-Builder. In so doing, they may, but are not required to, consider the nominees offered by the initial 2 members. Within a reasonable time after selection of the third member, the Owner, the Design-Builder, and all 3 members of the DRB shall execute a three-party agreement.

17.2.8 Compensation

The Design-Builder shall pay the invoices of the DRB members in accordance with the executed three-party agreement. The Design-Builder shall pay the DRB member invoices out of the allowance amount established in the Contract.

17.2.9 Operation of the DRB

The DRB shall formulate the DRB's rules of operation consistent with the terms and conditions specified herein. The rules shall allow for flexibility and conformance with the Parties expectations in the resolution of disputes. The DRB members will be kept informed of construction activities by means of regular written progress reports and other relevant data prepared by the Design-Builder and approved by the Owner. The DRB shall be provided Contract Documents and relevant Project information at the outset of the Project that allows the DRB to stay abreast of Project developments and potential disputes through regular periodic Site meetings with the Owner and Design-Builder.

The DRB shall visit the Project and meet with representatives of the Owner and the Design-Builder at intervals as requested by the Parties. Meetings shall be held at the Project Site. Each meeting shall consist of an informal discussion regarding progress and issues, followed by field observation of the Work. The meetings shall be private and attended only by invited personnel from the Owner and the Design-Builder. The agenda shall generally include the following:

- a. Meeting convened by the chairperson of the DRB.
- b. Opening remarks by the Owner's representative.
- c. A description by the Design-Builder's representative of:
 1. The Work accomplished since the last meeting;
 2. The current status of the Work schedule;
 3. The schedule for future Work; and

4. Potential disputes, claims, and other controversies; and proposed solutions for these problems.
- d. A description by the Owner's representative of:
 1. The Work accomplished since the last meeting;
 2. The current status of the Work schedule;
 3. The schedule for future Work;
 4. Potential disputes, claims, and other controversies; and proposed solutions for these problems; and
 5. Set tentative date for the next Project visit and meeting.

The Design-Builder shall prepare minutes of the meetings and circulate them for any comments, revisions, and approval of all concerned. A Site visit covering all active segments of the Work shall occur after the meeting. During the Site visit, the DRB shall be accompanied by representatives of both the Owner and the Design-Builder at all times.

17.2.10 Procedure; Schedule; Informal Hearing for DRB Disputes Resolution

Disputes shall be referred to the DRB in accordance with section 17.2.2, Referral to DRB.

Both the Owner and Design-Builder shall submit a Statement of Dispute to the DRB stating clearly and in full detail the specific issues of the dispute and each Party's position. The Statement of Dispute may be the Design-Builder's claim and the Owner's response to the claim along with additional information that either Party decides to submit in support of its position. The DRB shall determine the submission schedule including time for reply or rebuttal statements. Simultaneous with submittal to the DRB, a copy of the Statement of Dispute shall be provided to the other Party.

When a dispute is referred to the DRB, it shall first be decided by the Parties and the DRB when to conduct the hearing, and if the dispute will be heard informally or formally by the DRB. Either way, each Party will be given an equal opportunity to present its position. Further, the Parties agree that legal discovery is prohibited during the informal and formal DRB hearing process.

If all agree that the dispute will be heard informally, the informal hearing will be conducted as an informal discussion between the DRB and the Parties at the Project office. (See 17.2.11, Conduct of Formal DRB Hearing.) Each Party shall be encouraged to require representatives with appropriate corporate authority for issue resolution to attend the informal hearing. The informal hearing is an expedited approach intended to facilitate each Party's understanding of the other Party's position and to solicit a non-binding recommendation or advisory opinion from the DRB on less complicated matters to assist the Parties in resolution of the issue. If the Parties cannot agree on whether the hearing should be informal, the DRB will schedule a formal hearing.

17.2.11 Conduct of Formal DRB Hearing

During a formal DRB hearing, the DRB may request that either Party produce specific, material documents that, in the sole opinion of the DRB, will assist the DRB in its deliberations and in reaching a fair and useful recommendation. The DRB may request that, in addition to the Statements of Dispute,

supplemental written documentation, arguments, or copies of key legal cases relied upon be submitted by either Party or both Parties to the DRB before or after the hearing. However, whether the hearing is informal or formal, and because the DRB process is intended to facilitate resolution of disputes at least cost, the Parties expressly agree to avoid extensive legal briefing and to waive legal discovery as part of the DRB process.

The hearing location will be at the Project office unless otherwise agreed by the Parties. All hearings will be conducted as private and confidential meetings.

The third member of the DRB will chair the hearing. Each member shall keep their own notes. No formal transcript will be recorded.

The Owner and the Design-Builder shall have representatives at all hearings. The Party that brings to the DRB the initial dispute shall first present the dispute and its position to the DRB, followed by the other Party. Each Party will then be allowed successive rebuttals until all issues and supporting evidence are fully covered. The DRB members may ask questions, request clarification, or ask for additional data. Additional hearings may be necessary if ordered by the DRB, in its sole discretion, to consider and fully understand all evidence presented by both Parties. Both the Owner and the Design-Builder shall be provided full and adequate opportunity to present all of their evidence, documentation, and testimony regarding all issues before the DRB; at the same time, both Parties will be expected to comply with any agreed-upon procedures and time limits that are mutually established prior to the hearing.

The Parties agree that attendance at DRB hearings, informal and formal, by Party attorneys shall be prohibited unless the Parties agree otherwise in writing. No presentations by attorneys shall be allowed during DRB hearings in any event.

During DRB hearings, no DRB member shall express to either Party any opinion concerning the merit of any matter in the dispute. After the hearing is concluded, the DRB shall meet to formulate its recommendation. All DRB deliberations shall be conducted in private, with all individual views kept strictly confidential.

Following a formal hearing, the DRB's written recommendation, together with its reasoning, shall be submitted to both Parties. The recommendation shall be based on the pertinent provisions in the Agreement, applicable laws and regulations, and the facts and circumstances presented by the Parties at the hearing and in their Statements of Dispute and supporting documents.

The DRB shall make every effort to reach a unanimous recommendation. However, if this proves to be impossible, the DRB shall present a majority recommendation with the dissenting member having the right to prepare a written minority recommendation.

17.2.12 Additional Requirements for Subcontractor Demands

The Design-Builder's Subcontractors (design and construction) and Team Members shall be bound by Section 17, Disputes Resolution. The Design-Builder shall require in its subcontracts that the provisions of Section 17, Dispute Resolution, apply to any "Subcontractor Demands." A "Subcontractor Demand" shall include any claim by a Subcontractor (including also any pass-through claims by a lower tier subcontractor) against the Design-Builder that is actionable by the Design-Builder against the Owner and arises from work, services, or materials provided or to be provided under this Contract. If

the Design-Builder determines to pursue a claim against the Owner that includes a Subcontractor Demand, the following additional conditions shall apply:

a. The Design-Builder shall identify clearly in all submissions that portion of the claim which involves a Subcontractor, including the following:

1. The Design-Builder shall include, as part of its submissions, a certification by the Subcontractor's officer, partner, or authorized representative with authority to bind the Subcontractor and with direct knowledge of the facts underlying the Subcontractor's claim that:

(i) The Design-Builder has investigated the basis of the Subcontractor's claims and has determined that all such claims are justified as to entitlement and amount of money and time requested, and has reviewed and verified the adequacy of all back-up documentation;

(ii) The Subcontractor's claim has been prepared and submitted in accordance with the terms of the Contract Documents and the applicable subcontract(s) and contains all information required by the Contract Documents and applicable subcontract; and

(iii) The Design-Builder has no reason to believe and does not believe that the factual basis for the Subcontractor's claim is falsely represented.

Any claim under Section 17, Disputes Resolution, involving Subcontractor Work shall be considered incomplete if it is not accompanied by such analysis and certification.

b. At any DRB hearing on a dispute or claim that includes 1 or more Subcontractor Demands, the Design-Builder shall require that each Subcontractor that is involved in the dispute have present one or more authorized representatives with actual knowledge of the facts underlying the Subcontractor's claim to assist in presenting the Subcontractor's claim and to answer questions raised by the DRB members or the Owner's representatives.

c. Failure of the Design-Builder to assert a Subcontractor's claim on behalf of any Design-Builder Team Member at the time of referral of the dispute to the DRB as provided in Section 17.2.2, Referral To DRB, shall constitute a release of the Owner by the Design-Builder of the Subcontractor's claim with respect to the dispute brought before the DRB.

d. The Design-Builder shall require in all subcontracts that all Design-Builder Team Members of any tier agree as follows:

1. To submit Subcontractor's claims to the Design-Builder in a proper form and in sufficient time to allow processing by the Design-Builder in accordance with GP17.2, Disputes Resolution;

2. To be bound by the terms of Section 17, Dispute Resolution, to the extent applicable to Subcontractor's claims;

3. That, to the extent a Subcontractor's claim is involved, completion of all steps required under Section 17, Dispute Resolution, shall be a condition precedent to pursuit by the Subcontractor of any other remedies permitted by law; and

4. That the existence of a dispute resolution process for involving Subcontractor's Demands shall not be deemed to create any claim, right, or cause of action by any Subcontractor or other Design-Builder Team Member against the Owner.

e. Notwithstanding the foregoing, Section 17, Dispute Resolution, shall not apply to, and the DRB shall not have the authority to consider any of the following Subcontractor claim(s):

1. Any claim between a Subcontractor and the Design-Builder that is not actionable by the Design-Builder against the Owner;
2. Any claim based on remedies expressly created by statute;
3. Any claim that is covered by insurance; or
4. Any claim that is actionable only against a bonding company.

17.2.13 DRB Recommendation

The DRB's recommendation for resolution of a dispute or claim following a formal hearing shall be reasoned and given in writing to both the Owner and the Design-Builder within 30 calendar days after completion of the hearing, unless otherwise mutually agreed by the DRB, Owner and Design-Builder.

Within 30 calendar days after receiving the DRB's recommendation, or such other time as agreed by the DRB and the Parties, both the Owner and the Design-Builder may respond to the other and to the DRB in writing, signifying either acceptance or rejection of the DRB's recommendation. The recommendation of the DRB shall be non-binding unless it is affirmatively accepted by both Parties in writing. Failure of either Party to respond within the specified period shall be deemed a rejection of the DRB's recommendation. If the recommendation is accepted by both Parties, the Owner will promptly process any required Contract Change Order.

Should a Party reject the DRB's recommendation within the 30-day period, or portions thereof, the DRB may, if requested by either Party, re-consider supplemental responses by the Parties and, within 30 calendar days of the DRB's receipt of both Parties' supplemental responses, the DRB shall issue a final recommendation. Otherwise, the DRB's initial recommendation shall be considered the DRB's final recommendation. If supplemental responses are submitted by the Parties, the DRB's final recommendation may either uphold its initial recommendation or amend it as the DRB determines to be appropriate.

The final recommendation of the DRB shall be the DRB's final action regarding the dispute. The Parties are encouraged to accept the DRB's final recommendation within 60 days. If both Parties do not affirmatively accept the DRB's final recommendation in writing within 60 calendar days after the Parties' receipt of the DRB's final recommendation, the dispute shall remain unresolved.

No Party shall be precluded from initiating a proceeding in a court of competent jurisdiction for the purpose of obtaining any emergency or provisional remedy, which may be necessary and is not otherwise available under Section 17, Dispute Resolution, to protect its rights, including temporary and preliminary injunctive relief, attachment, claim and delivery, receivership, and any extraordinary writ.

17.2.14 Admissibility of DRB Recommendation and DRB Supporting Documents

The Parties agree that the DRB's written recommendations and documents cited by the DRB in support of the DRB's written recommendations are not admissible in a subsequent proceeding. The Parties further agree that any and all notes, materials, emails, correspondence, phone conversations, minutes of meetings or records of any kind whatsoever that were written, communicated or compiled by the DRB, or written or compiled by a Party regarding a communication with the DRB, including during any hearings, shall be inadmissible in any subsequent proceeding.

17.2.15 Filing of Public Works Construction Claim, and Civil Actions.

In the event the Parties are unable to come to agreement on a matter submitted to the DRB, the Design-Builder may proceed with the claims procedures set forth in section 18.11.

18. STATUTORY PUBLIC WORKS CONTRACT REQUIREMENTS

The following requirements apply to all public works construction work performed under this Agreement.

18.1 Public Works Registration. Design-Builder or its contractor, and all subcontractors, must be registered with the California Department of Industrial Relations pursuant to Labor Code Section 1725.5. This Agreement is subject to monitoring and enforcement by the DIR pursuant to Labor Code **Section** 1771.4. Design-Builder shall furnish the records specified in Labor Code Section 1776 directly to the Labor Commissioner on a monthly basis, and in a format prescribed by the Labor Commissioner. Design-Builder must also post notices at the work site pursuant to Title 8 California Code of Regulations Section 16451.

18.2 Use of Subcontractors. Design-Builder shall not subcontract any work to be performed by it under this Agreement without the prior written approval of SVCW. Design-Builder shall be solely responsible for reimbursing any subcontractors and Owner shall have no obligation to them. Attention is directed to the requirements of Section 4100 to 4113, inclusive of the California Public Contract Code which are applicable to the work covered by this Agreement.

18.3 Prohibition Against Contracting with Debarred Subcontractors. Design-Builder is prohibited from performing work on a public works project with a subcontractor who is ineligible to perform work on the **public** works project pursuant to Section 1777.1 or 1777.7 of the Labor Code.

18.4 Prompt Payment to Subcontractors. Design-Builder shall pay any subcontractors approved by Owner for work that has been satisfactorily performed no later than seven (7) days from the date of Design-Builder's receipt of progress payments by SVCW. Within thirty (30) days of receipt of retention by Design-Builder and satisfactory completion of all work required of the subcontractor, Design-Builder shall release any retention payments withheld to the subcontractor. In the event Design-Builder does not make progress payments or release retention to the subcontractors in accordance with the time periods in this section, Design-Builder will be subject to a charge of two percent (2%) per month on the untimely or improperly withheld payment. Owner may require Design-Builder to provide documentation satisfactory to Owner of Design-Builder's compliance with this requirement as a condition of final payment and release of contract retentions, if any.

18.5 Payment Bond for Construction Work. Pursuant to Civil Code Section 9550, Design-Builder shall furnish to Owner a Payment Bond in the amount of all equipment and construction costs, to provide Owner with security for Design-Builder's full payment to workers and subcontractors for costs

of materials, equipment, supplies, and labor furnished in the course of the performance of the work applicable to this section. A form of payment bond is included in Exhibit 8.

18.6 Labor Code Provisions. In the performance of this Contract, Design-Builder's attention is directed to the following requirements of the Labor Code:

Hours of Labor. Eight hours labor constitutes a legal day's work. Design-Builder shall forfeit, as penalty to SVCW, \$25 for each worker employed in the performance of the Agreement by Design-Builder or by any subcontractor under it for each calendar day during which such worker is required or permitted to work more than eight hours in any one day and 40 hours in any one calendar week in violation of the provisions of the California Labor Code and in particular, Sections 1810 to 1815, inclusive. Work performed by employees of the Design-Builder in excess of eight hours per day and 40 hours during any one week shall be permitted upon compensation for all hours worked in excess of eight hours per day at not less than one-and-one-half times the basic rate of pay, as provided in Section 1815.

Prevailing Wages. Design-Builder shall comply with California Labor Code Sections 1770 to 1780, inclusive. In accordance with Section 1775, the Design-Builder shall forfeit as a penalty to Owner an amount as determined by the Labor Commissioner not to exceed \$200 for each calendar day or portion thereof for each worker paid less than stipulated prevailing wage rates for such work or craft in which such worker is employed for any work done under the Agreement by him or by any subcontractor under it in violation of the revisions of the Labor Code and in particular, Labor Code Sections 1770 to 1780, inclusive. In addition to said penalty and pursuant to Section 1775, the difference between such stipulated prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by Design-Builder. Pursuant to the provisions of Section 1773 of the Labor Code, Owner has obtained the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work applicable to the work to be done from the Director of the Department of Industrial Relations. Copies of the prevailing wage rates are on file at Owner and are available for review upon request.

Payroll Records. The Design-Builder's attention is directed to the following provisions of Labor Code Section 1776. The Design-Builder shall be responsible for the compliance with these provisions by his subcontractors.

- (a) Each contractor and subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work.
- (b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the Design-Builder on the following basis:
 - (i) A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his or her authorized representative on request.

(ii) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to SVCW, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations.

(iii) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either SVCW, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the Design-Builder, subcontractor and the entity through which the request was made. The public shall not be given access to such records at the principal office of the Design-Builder.

- (c) The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the Division.
- (d) The Design-Builder shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested such records within ten (10) days after receipt of a written request.
- (e) Any copy of records made available for inspection as copies and furnished upon request to the public or SVCW, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of the Design-Builder shall not be marked or obliterated.
- (f) The Design-Builder shall inform Owner of the location of records enumerated under subdivision (a), including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.
- (g) In the event of noncompliance with the requirements of this Section, the Design-Builder shall have ten (10) days in which to comply subsequent to receipt of written notice specifying in what respects such contractor must comply with this Section. Should noncompliance still be evident after such 10-day period, the Design-Builder shall, as a penalty the State or SVCW, forfeit Twenty-five Dollars (\$25) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from progress payments then due. The penalties specified in subdivision (g) of Labor Code Section 1776 for noncompliance with the provisions of said Section 1776 may be deducted from any monies due or which may become due to the Design-Builder.
- (h) The Design-Builder and each subcontractor shall preserve their payroll records for a period of three (3) years from the date of completion of the Contract.

Labor Non-discrimination. Attention is directed to Section 1735 of the Labor Code which provides that Design-Builder shall not discriminate against any employee or applicant for employment

because of race or color, religion, physical or mental disability, national origin or ancestry, medical condition, marital status or sex of such persons, except as provided in Section 12940 of the Government Code. Design-Builder further agrees to include a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

Apprentices. The Design-Builder and all subcontractors shall comply with the requirements of California Labor Code sections 1777.5, 1777.6 and 1777.7 regarding the employment and of apprentices.

18.7 Retention on Progress Payments. Owner will deduct and hold in retention ten percent (10%) from each progress payment to Design-Builder for construction work, or portion thereof. The remainder, less any other deductions taken in accordance with the Agreement, will be paid to Design-Builder as progress payments.

18.8 Securities in Lieu of Retention. Pursuant to Public Contract Code Section 22300, Design-Builder may elect, in lieu of having progress payments retained by SVCW, to deposit in escrow with SVCW, or with a bank acceptable to SVCW, securities eligible for investment under Government Code Section 16430, bank or savings and loan certificates of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by Design-Builder and SVCW. If Design-Builder elects to submit securities in lieu of having progress payments retained by SVCW, Design-Builder shall, at the request of any subcontractor performing more than 5% of Design-Builder's total bid, make the same option available to the subcontractor.

18.9 Assignment of Claims. In entering into a public works contract or a subcontract to supply goods, services, or materials, Design-Builder or subcontractor offers and agrees to assign to Owner all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with 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 or the subcontract. This assignment shall be made and become effective at the time Owner tenders final payment to Design-Builder, without further acknowledgement by the parties.

18.10 Third-Party Claims. Pursuant to Public Contracts Code Section 9201, Owner shall have full authority to compromise or otherwise settle any claim relating to the Agreement at any time. Owner shall provide for timely notification to Design-Builder of the receipt of any third-party claim, relating to the contract. Notice shall be in writing and will be provided within thirty (30) days.

18.11 Public Contract Code Claims Procedures

18.11.1 Mandatory Prerequisites to Filing a Construction Claim. Prior to filing a construction claim pursuant to Public Contract Code Sections 9203 and 20104-20104.6 and this section, Design-Builder must first complete all Change Order procedures in Section 9 of the Design-Build Agreement, and all Dispute Resolution Board procedures set forth in Section 17 of these Supplemental Conditions. Any claim submitted prior to satisfaction of the Change Order procedures or the Dispute Resolution Board procedures will be rejected as premature and untimely. A construction claim must be submitted no later than (a) 30 days after the completion of all Dispute Resolution Board procedures are completed, or (b) 30 days after the occurrence of the event giving rise to the claim.

18.11.2 Claims Procedures. In accordance with the procedures set forth in Public Contract Code sections 9204 and 20104-20104.6, Design-Builder may submit a claim by registered or

certified mail with return receipt requested, for one or more of the following: (a) a time extension, including, without limitation, for relief from damages or penalties for delay assessed by the Owner; (b) payment by the Owner of money or damages arising from work done by, or on behalf of, the Design-Builder pursuant to this contract and payment for which is not otherwise expressly provided or to which the Design-Builder is not otherwise entitled; or (c) payment of an amount that is disputed by the Owner.

18.11.3 Support for Claim. The Design-Builder shall furnish reasonable documentation to support the claim, including but not limited to: 1) a clear, concise recital of the basis upon which the claim is asserted, including a designation of the provisions of the Contract Documents upon which the claim is based, 2) a statement as to the amount of time and/or compensation sought pursuant to the claim; 3) whether the Design-Builder's claim arises from an ongoing occurrence, and if so a description of the specific Work activities affected by the claim, 4) a time impact analysis in the event that Design-Builder requests a time extension, 5) full and complete cost records supporting the amount of any claim for additional compensation, and 6) a notarized certification by the Design-Builder as follows: "Under the penalty of law for perjury or falsification and with specific reference to the California False Claims Act, Government Code Section 12650 et seq., the undersigned hereby certifies that the information contained herein is a true, accurate and complete statement of all features relating to the claim asserted." Failure by the Design-Builder to provide sufficient documentation will result in denial of the claim. The Owner reserves the right to request additional documentation, or clarification of the documentation provided.

18.11.4 Response to Claim. Upon receipt of a claim, the Owner will conduct a reasonable review and provide a written statement to the Design-Builder identifying what portion of the claim is disputed and what portion is undisputed within 45 days of receipt of the claim. The Owner and Design-Builder may, by mutual agreement, extend the 45 day time period. For any undisputed portion of a claim, the Owner must make payment within 60 days of its issuance of the written statement.

If the Design-Builder disputes the Owner's written statement, or if the Owner fails to respond, the Design-Builder may demand an informal conference to meet and confer for settlement of the issues in dispute. The Owner will then schedule the meet and confer conference within 30 days of the demand. Within 10 business days following the meet and confer conference, the Owner will provide a written statement identifying the portion of the claim that remain in dispute. Any payment due on an undisputed portion of the claim will be made within 60 days of the meet and confer conference.

After the meet and confer conference, any disputed portion of the claim shall be submitted to non-binding mediation. Alternatively, upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable. If mediation is unsuccessful, the parts of the claim that remain in dispute shall be subject to applicable procedures set forth below.

Failure of Owner to respond to a claim within the time periods described above shall result in the claim being deemed rejected in its entirety. Additionally, amounts not paid in a timely manner shall bear interest at 7 percent per year.

In the event that the mediation is unsuccessful, Design-Builder must file a government claim pursuant to Government Code section 910 et seq. in order to initiate a civil action.

18.12 Utility Relocation. Pursuant to California Government Code Section 4215, if during the course of the work Design-Builder encounters utility installations which are not shown or indicated in the contract plans or in the specifications or which are found in a location substantially different from

that shown, and such utilities are not reasonably apparent from visual examination of the work site, then it shall promptly notify Owner in writing. Where necessary for the work of the Contract, Owner will amend the Agreement to adjust the scope of work to allow Design-Builder to make such adjustment, rearrangement, repair, removal, alteration, or special handling of such utility, including repair of the damaged utility. If Design-Builder fails to give the notice specified above and thereafter acts without instructions from SVCW, then it shall be liable for any or all damage to such utilities or other work of the Agreement which arises from its operations subsequent to the discovery, and it shall repair and make good such damage at its own cost.

18.13 Trenching, Shoring, and Differing Site Conditions.

18.13.1 Compliance. Design-Builder will comply with Labor Code sections 6500, 6705, and 6707, and Public Contract Code section 7104 regarding trenching and shoring.

18.13.2 Permit Requirements for Trenches 5'-0" or More in Depth. Design-Builder agrees to comply in full with Section 6500 of the Labor Code and to provide the required permits prior to the initiation of any work, method, operation or process that involves: (i) construction of trenches or excavations that are 5'-0" or deeper and into which a person is required to descend; (ii) the construction of any building, structure, falsework, or scaffolding more than 3 stories high or the equivalent height; (iii) the demolition of any building, structure, falsework, or scaffold more than 3 stories high or the equivalent height; or (iv) the underground use of diesel engines in work in mines and tunnels.

18.13.2.1 Detailed Plans for Trenches 5'-0" or More in Depth. In compliance with Labor Code section 6705, the Design-Builder will submit to the Owner's Project Manager, in advance of excavation, a detailed plan showing the design of shoring, bracing, sloping or other provisions to be made for worker protection from the hazard of caving ground during the excavation of any trench or trenches 5'-0" or more in depth. If the plan varies from shoring system standards, the plan will be prepared by a registered civil or structural engineer. The plan will not be less effective than the shoring, bracing, sloping, or other provisions of the Construction Safety Orders, as defined in the California Code of Regulations.

18.13.2.2 Separate Bid Items for Sheet piling, Shoring, etc. To the extent that Design-Builder's Work involves construction of a pipeline, sewer, sewage disposal system, boring and jacking pits, or similar trenches or open excavations, which are 5'-0" or deeper, Design-Builder will comply with all applicable laws, regulations, and codes and its bid and the Contract Price will contain, as a line item, adequate sheet piling, shoring, and bracing, or equivalent method, for the protection of life or limb pursuant to Labor Code section 6707, which will conform to applicable safety orders. Nothing in this section will be construed to impose tort liability on the Owner or any of its employees.

18.13.3 Excavations Deeper than 4'-0". If Work under this Agreement involves digging trenches or other excavation that extends deeper than 4'-0" below the surface, Design-Builder will promptly, and before the following conditions are disturbed, notify Owner's Project Manager, in writing, in accordance with Public Contract Code section 7104, of any:

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

18.13.3.2 Subsurface or latent physical conditions at the site differing from those indicated.

18.13.3.3 Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in the construction work of the character provided for in the Bid Documents and under this Agreement.

18.13.4 Differing Site Conditions. Design-Builder's notice to Owner shall be issued by telephone or in person and followed within 24 hours thereafter by written notice, providing a brief description of why the condition encountered is considered a Differing Site Condition. Promptly upon receipt of Design-Builder's notice, Owner will investigate the site conditions. If, during tunnel excavation, the Design-Builder encounters an alleged Differing Site Condition, the Design-Builder shall immediately give written notice and may continue tunneling; provided however that the following documents and information shall be submitted on a daily basis:

1. Digital photographs (paper and electronic copy) that detail the Differing Site Conditions;
2. An electronic copy of the TBM data for the previous 24 hours;
3. Sample of the excavated ground in the alleged Differing Site Condition area, taken from the conveyor belt or TBM spoil discharge point, equivalent in volume to a full sandbag for each ring advance while the alleged Differing Site Condition exists.
4. Design-Builder's daily shift reports for the previous 24 hours production for each day that the alleged Differing Site Condition exists; and
5. Records, face logs, and detailed daily records describing the ground conditions and the impact the ground conditions are having on the TBM and productivity.

Immediate written notice shall describe the specific ground conditions encountered and the measures taken to deal with the ground conditions. The Design-Builder will provide the OR with written notice within 5 business days discovery of an Unforeseen and Differing Site Condition. The OR, in conjunction with the Owner and IOR, will promptly investigate the conditions, and if they find that the conditions do so materially differ, or do involve hazardous waste, and cause a decrease or increase in Design-Builder's Contract Price or Contract Time for any part of the Work, the OR will recommend that the Owner issue a Change Order under Section 9 of the Agreement. If it is determined that physical conditions at the site are not materially different from those indicated in Bid Documents or that no change in terms of the Contract Documents is justified, the OR will notify Design-Builder in writing, stating reasons the Design-Builder will not be entitled to an adjustment in the Contract Price or Contract Time. Such reasons may include any of the following:

18.13.4.1 Design-Builder knew of the existence of the conditions at the time Design-Builder submitted its proposal; or

18.13.4.2 Design-Builder should have known of the existence of the conditions as a result of having complied with the requirements of Contract Documents; or

18.13.4.3 The information or conditions claimed by Design-Builder to be latent or materially different consist of information, conclusions, opinions or deductions of the kind that precludes reliance upon; or

18.13.4.4 Design-Builder was required to give written notice of differing site conditions under the Contract Documents and failed to do so within the time required.

The Design-Builder will not be excused from the Contract Time to complete its Work and will proceed with all Work to be performed under the Agreement unless or until it is determined that Design-Builder is entitled to an adjustment under Section 9 of the Agreement. If the Design-Builder disagrees with the

decision regarding an alleged Differing Site Condition, Design-Builder may pursue a claim under Section 15.11 of these Supplemental General Conditions..

18.14 Design-Builder's License Requirements. Design-Builder and any approved subconsultants (for architectural design, engineering, construction project management services) or subcontractors shall hold such current and valid licenses as required by California Law, including the Department of Industrial Relations (DIR) contractor and subcontractor registration requirements articulated in part by Cal. Labor Code section 1725.5.

18.15 Examination and Audit of Records. Pursuant to Government Code Section 8546.7, Design-Builder shall retain all project-related records for a period of 3 years after final payment on this DBO Contract, which shall be subject to audit or inspection by the Owner or the State Auditor during this period.

18.16 Safety Requirements. The Design-Builder shall promptly and fully comply with and carry out, and shall without separate charge therefore to the SVCW, enforce compliance with the safety and first aid requirements prescribed by applicable State and Federal laws and regulations, rules and orders and as may be necessary to ensure that all Construction Work shall be done in a safe manner and that the safety and health of the employees, agents and the people of local communities is safeguarded. Compliance with the provisions of this Section by subcontractors shall be the responsibility of the Design-Builder. All installed, dismantled, and removed material, equipment and facilities, without separate charge therefore to SVCW, shall fully conform with all applicable State and Federal safety laws, rules, regulations and orders and it shall be the Design-Builder's responsibility to furnish only such material, equipment and facilities.

18.17 Notice of Third-Party Claims. Pursuant to Public Contract Code section 9201, the Owner will provide Design-Builder with timely notification of the receipt of any third-party claim relating to the Agreement.

18.18 Assignment of Anti-Trust Actions. Pursuant to Public Contract Code section 7103.5 and Government Code sections 4554 and 4553, in entering into a public works contract or subcontract to supply goods, services, or materials pursuant to a public works contract, Design-Builder, its Design Professionals and Subcontractors offer and agree to assign to the Owner 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 the purchase of goods, services, or materials pursuant to this Agreement or any Subcontract. This assignment will be made and become effective at the time the Owner makes final payment to the Design-Builder, without further acknowledgment by the parties.

18.19 Compliance with All Applicable Laws. Design-Builder shall comply with all the applicable requirements of federal, state and local laws, statutes and ordinances relative to the execution of the Construction Work. In the event Design-Builder fails to comply with these requirements, Owner may stop any Construction Work until such noncompliance is remedied. No part of the time lost due to any such cessation of the Construction Work shall be made the subject of a claim for an extension of time or increase in the compensation.

19. CLEAN WATER STATE REVOLVING FUND LOAN REQUIREMENTS / WIFIA REQUIREMENTS

Design-Builder must comply with all requirements and obligations imposed upon Owner by the State Water Resources Control Board pursuant to the Clean Water State Revolving Fund loan agreement between Owner and the State Water Resources Control Board, a copy of which is attached and incorporated as **Exhibit 9**.

Design-Builder must comply with all requirements and obligations imposed upon Owner by the US EPA pursuant to the Water Infrastructure Finance and Innovation Act (WIFIA) loan agreement between the Owner and the US EPA. A copy of which is attached and incorporated as Exhibit ____.

END OF DOCUMENT

Exhibit 2
BASE DESIGN CRITERIA

To be inserted into final agreement.

Exhibit 3
SCOPE OF WORK

To be inserted into final agreement.

Exhibit 4
COMPENSATION

To be inserted into final agreement.

Exhibit 5
PERSONNEL

To be inserted into final agreement.

Exhibit 6
SCHEDULE AND SITE LOGISTICS PLAN

To be inserted into final agreement.

Exhibit 7
DESIGN SUBMISSIONS

To be inserted into final agreement.

Exhibit 8A
OWNER CONTROLLED INSURANCE PROGRAM



▪ **Silicon Valley Clean Water**

Owner Controlled Insurance Program (OCIP) Information for Contractors Bidding

.....

6/7/17 EDITION

This is a contract document

This is intended to provide only a general overview of the Owner Controlled Insurance Program and does not in any way alter or take precedence over the language in the actual insurance policies and contracts. It makes no promise to provide insurance to those not enrolled in the Owner Controlled Insurance Program.

Overview

Welcome to the [Silicon Valley Clean Water \(SVCW\)](#) Owner Controlled Insurance Program (OCIP)

Silicon Valley Clean Water (SVCW) is planning to utilize an Owner Controlled Insurance Program (OCIP) for Capital Improvement construction projects. SVCW has arranged for selected construction projects to be insured under its OCIP. The OCIP is an insurance program that insures the SVCW, eligible and enrolled Construction Managers, Contractors and subcontractors, and other SVCW designated parties for Work performed at the Job Site. Certain Contractors and subcontractors are **excluded** from this OCIP.

Excluded Contractors/ Excluded subcontractors:

- (1) Professional services of architects, engineers, surveyors, and soil and other testing or inspection companies, and their consultants.
- (2) No coverage will be provided for any work performed by any Contractor engaged in the abatement of asbestos, asbestos products, asbestos-containing materials or products, including manufacturing, mining, use, sale, installation or removal, and distribution activities.
- (3) Work performed off SVCW property or at another location not specifically included in the definition of the Job Site.
- (4) Contractors that work with hazardous materials, remediation, removal and/or transport companies and their consultants.
- (5) Sanitary disposal facility providers, if the only function is to drop off and pick up units. If the company also services/cleans the units on-site, the Contractor is eligible for enrollment.
- (6) Vendors, suppliers, fabricators, material dealers, truckers, haulers, drivers and others who merely transport, pick up, deliver, or carry materials, personnel, parts or equipment or any other items or persons to or from the job site.

Coverage under the OCIP includes:

- General Liability
- Excess Liability insurance
- Builders' Risk
- Contractor's Pollution Liability insurance

And MAY ultimately include:

- Workers' Compensation & Employer's Liability

After SVCW performs a cost/benefit analysis of including workers' compensation in this program.

All insurance carriers participating in the OCIP are approved to provide insurance in the State of California.

SVCW will pay insurance premiums for the OCIP coverage described in this manual. You should notify your insurer(s) to endorse your coverage to be excess and contingent over the insurance provided under this OCIP for on-site activities and the related costs. **Each bidder, the Contractor and its subcontractors, are required to exclude from its bid price and requests for payment, the cost of insurance coverages that will be provided by the SVCW.** Enrolled Contractors must purchase their own insurance for off-site activities and exposures not covered by the OCIP and must submit certificates of insurance as required by their contract.

NOTE:

Insurance coverages and limits provided under the OCIP are limited in scope and are specific to work performed, commencing on the inception date of your enrollment into this program and limited to only work performed at the Job Site. Your insurance representative should review this information. Any additional coverage you may wish to purchase will be at your option and expense.

SVCW will purchase the following coverages for the benefit of all Enrolled Parties performing Work at the Job Site:

A single general liability policy will be issued for all Enrolled Parties.

Primary Commercial General Liability Coverage

Third Party Personal Injury, Bodily Injury and Property Damage Liability shared by all insures for all projects. This Insurance applies to the operations of all enrolled Contractors at the job site.

	<u>Shared by All Enrolled Parties</u>
Each Occurrence Limit	\$ 2,000,000
▪ General Aggregate (applies per project)	\$ 4,000,000
Products/Completed Operations Aggregate	\$ 4,000,000
Personal/Advertising Injury Aggregate	\$ 2,000,000
Fire Damage Legal Liability (any one fire)	\$100,000
Medical Expense Limit (any one person)	\$ 5,000

- Ten (10) year Products and Completed Operations Extension beyond final acceptance of the entire project with a single non-reinstated aggregate limit.
- This insurance will **NOT** provide coverage for products liability to any enrolled party, vendor, supplier, off-site fabricator, material dealer or other party for any product manufactured, assembled or otherwise worked upon away from the Job Site.
- **The policy contains exclusions.** Some of these exclusions are: Total Pollution, Fungus including Mold, Bacteria, and Viruses, Lead, EIFS, Asbestos/Silica, Employment-Related Practices, Discrimination. Actual policies are definitive source for terms, conditions, exclusions and limitations.
- **Not Covered:** Coverage is not provided for any claim that could be covered under a Property or Builder's Risk policy.

Excess liability
policy(ies) will be
issued for all
Enrolled Parties.

Excess Liability

	<u>Shared by All Enrolled Parties</u>
Each Occurrence Limit	\$50,000,000 or more
Annual General Aggregate Limit	\$50,000,000 or more

- Policy substantially follows form (provisions, coverages, exclusions, etc.) of underlying Commercial General Liability and Employer's Liability policy wording.
- Excludes: Exterior Insulation and Finish Systems (EIFS), Real & Personal Property in the Care, Custody, or Control of the Insured; Asbestos; Discrimination & Wrongful Termination; ERISA; Owned & Non-Owned Aircraft, Automobile Liability and Watercraft; Nuclear Broad Form Liability, and Fungus (Mold).

The OCIP **does not** provide
coverage for Contractors' and
subcontractors' personal
property.

Builders' Risk Coverage

Builder's Risk coverage pays for direct losses to buildings or other property during construction (repair or replacement of property) and limited indirect losses arising out of a covered loss. The policy applies to:

- (1) All work at the Job Site including labor and materials to be incorporated into the work.
- (2) Materials adequately protected and stored at the Job Site that will be incorporated into the work.

A blanket policy limit provides "All Risks" of direct physical loss or damage, subject to policy exclusions, on each occurrence. The policy limits and sub-limits are as listed below. Limits of Liability are shared by All Enrolled Parties: This coverage provides, but is not limited to:

\$TBD Loss Limit (Total limit of coverage), subject to sub-limits of:

1. \$50,000,000 annual aggregate for earthquake and a \$50,000,000 annual aggregate for flood (depending on flood zones).
2. \$2,500,000 Building Ordinance or Law (Coverage A, B & C combined)
3. \$2,500,000 Debris Removal per Occurrence
4. **TBD** Delay in Completion/Soft Costs
5. \$100,000 Loss Adjustment Expenses
6. \$100,000 Expediting Expenses per Occurrence
7. \$50,000 Fire Department Services Charges per Occurrence
8. \$500,000 Inland Transit
9. \$1,000,000 Offsite Temporary Storage per Occurrence
10. \$50,000,000 Physical Damage per Occurrence
11. \$100,000 Valuable Papers and Records
12. \$10,000 Pollution Clean Up
13. \$25,000 Trees, Shrubs, Plants and Landscaping per Occurrence (Named Perils Only)

Enrolled Parties (to the extent required by contract or subcontract)
are Additional Named Insureds.

- Includes coverage for the insured's property under construction, including materials, supplies, machinery, fixtures and equipment which will become a permanent part of the project. Coverage provides protection against risk of direct physical loss or damage subject to policy conditions and exclusions.

Contractor's Pollution Liability

This policy applies to all enrolled Contractors working at the Job Site. SVCW notifies the carrier by providing the insurance company with a list and description of each construction project along with the total project budget.

	<u>Shared by All Enrolled Parties</u>
Each Occurrence Limit	\$5,000,000
Annual General Aggregate Limit	\$10,000,000

Coverage: This policy provides coverage for on-site cleanups, as well as off-site cleanups related to on-site remediation in the event the enrolled Contractor is negligent and exacerbates the existing pollution condition. This policy also provides coverage for third-party claims alleging bodily injury, property damage, or cleanup costs arising from the construction activities associated with the designated projects.

Ten (10) years Completed operations coverage for all Enrolled Parties.

After a Cost/Benefit analysis is performed, Workers' Compensation MAY be included with the structure shown below.

Workers' Compensation and Employer's Liability Coverage: Workers compensation insurance covers all enrolled Contractors' employees while performing work at the Job Site. Statutory benefits are provided according to the schedule of benefits payable to an employee for Injury, Disability, Dismemberment, or Death resulting from an occupational hazard as defined for the State of California.

Part One -

Workers' Compensation:

Statutory Limit

A separate workers' compensation & employer's liability policy will be issued to each Enrolled Party.

Part Two -

Employer's Liability: Annual Limits per Enrolled Party

	Bodily Injury by Accident, each accident	\$ 2,000,000
▪	Bodily Injury by Disease, each employee	\$ 2,000,000
▪	Bodily Injury by Disease, policy limit	\$ 2,000,000

Not Covered: The OCIP does not provide workers' compensation insurance for the following: asbestos or lead abatement workers; or for injuries occurring away from the Job Site; or with respect to employees of Contractors that are solely engaged in the delivery or removal of material or equipment; and truckers.

OCIP Termination or Modification

The Owner reserves the right to terminate or modify the OCIP or any portion thereof. If Owner exercises this right, Contractors and Subcontractors will be provided notice as required by the terms of the individual contracts. At its option, the Owner may procure alternate coverage.

Contractor Required Coverage

Contractors and all subcontractors are required to maintain insurance coverage to protect against losses that occur away from the Job Site or are otherwise not covered under the OCIP.

Enrolled Contractors are to provide evidence of Workers' Compensation & Employer's Liability, and General Liability, Excess/Umbrella Liability insurance for **off-site activities** and Automobile Liability insurance as per the insurance specifications in the Contract.

Certificates of Insurance are due prior to mobilization and within five (5) days of renewal, change or replacement of coverage.

- **Excluded Contractors** must provide evidence of Workers' Compensation & Employer's Liability, General Liability, Excess/Umbrella Liability and Automobile Liability insurance for all activities including **both on-site and off-site activities** as per the insurance specifications in the Contract.
- **All Contractors must submit verification of insurance in the form of a Certificate of Insurance on a standard ACORD form 25-S (2010/05).**

Verification of Required Coverages

Contractors shall provide verification of insurance to the WFIS OCIP Administrator prior to mobilization and within five (5) days of any renewal, change or replacement of coverage. A sample of an acceptable certificate of insurance is provided in Section 8 (Forms). Please note that Contractors required insurance coverages must include waivers of subrogation and additional insured statuses as noted here and in the contract. Note the contractual requirement that the Contractor must provide SVCW advance written notice of at least sixty (60) days in case of cancellation, material change in policy terms or coverage non-renewal.

The limits of liability shown for the insurance required of the Contractors are minimum limits only and are not intended to restrict the liability imposed on the Contractors for work performed under their Contract.

If a Contractor is terminated under the OCIP for the portion of the project put to its intended use, or where a temporary or permanent certificate of occupancy is issued, but remains on-site for non-OCIP site work, the Contractor will be considered "Excluded" and must provide the tiered coverage enumerated herein for Excluded Contractors. Any exceptions will be at the sole discretion of the SVCW Risk Management Department.

Contractor Maintained Coverages

Workers' Compensation and Employer's Liability **(Enrolled & Excluded)**

Part One – Statutory Limit for the State of California

Part Two –

Annual Limits

	<u>Employer's Liability Limits</u>
Bodily Injury by Accident, each Accident:	\$1,000,000
▪ Bodily Injury by Disease, each employee:	\$1,000,000
▪ Bodily Injury by Disease, policy limit:	\$1,000,000

Commercial General Liability **(Enrolled & Excluded)**

▪ General Aggregate	\$ 2,000,000
Products/Completed Operations Aggregate	\$ 2,000,000

Personal/Advertising Injury Aggregate	\$ 2,000,000
Each Occurrence Limit	\$ 1,000,000

- Coverage must be on an Occurrence form and applies to bodily injury and property damage for operations (including explosion, collapse and underground coverage), independent contractors, products and completed operations.

Automobile Liability (Enrolled & Excluded)

Combined Single Limit	\$ 10,000,000
Bodily Injury and Property Damage	

- Commercial Business Auto Policy covering all owned, hired and non-owned automobiles, trucks and trailers.
- Coverage will apply both at and away from the Job Site.

Property Insurance (Enrolled & Excluded)

Contractors and subcontractors must provide their own insurance for owned, leased, rented and borrowed equipment, whether such equipment is located at a Job Site or “in transit.” Contractors and subcontractors are solely responsible for any loss or damage to their personal property including, without limitation, property or materials created or provided under the Contract until installed at the Job Site, Contractor tools and equipment, scaffolding and temporary structures.

The OCIP **does not** provide coverage for Contractors’ and subcontractors’ personal property.

Watercraft and Aircraft Liability (Enrolled & Excluded)

The operator of any watercraft or aircraft of any kind used in the Work must maintain liability insurance naming Silicon Valley Clean Water and the respective Contractor and/or subcontractor as an additional insured with primary and non-contributory wording. In addition, the limit of liability must be satisfactory to SVCW. Such insurance requirements will be determined as the need arises.

Pollution Liability (Enrolled & Excluded)

Contractors and subcontractors with Work involved in the removal or treatment of hazardous materials will provide and maintain Contractors’ Pollution Liability insurance. Such coverage will specifically schedule the type of work defined in the Contract.

Limits of liability for Contractor's Pollution Liability Insurance for Parties involved in abatement work:

Combined Single Limit per Occurrence	\$2,000,000
General Annual Aggregate	\$2,000,000

If transporting hazardous waste/materials to/from the Job Site, appropriate MCS-90 Endorsement must be attached and supplied by Contractor on a primary basis with a \$5,000,000 limit of liability.

Professional Liability (Enrolled & Excluded)

If required by the contract, for architects, engineers, surveyors, planners, consultants and other related professionals. The policy must provide a \$10,000,000 limit per claim and \$10,000,000 annual aggregate.

**Failure of any
Enrolled
Contractor or
any Excluded
Contractor to
file the
required
certificates of
insurance will
not relieve such
party of its
responsibility
to carry and
maintain such
insurance.**

Insurance Certificates (For enrolled Contractors and those excluded from the OCIP)

All Contractors shall provide a valid and properly executed certificate of insurance citing the coverage required for Enrolled Contractors and Excluded Contractors to the OCIP Administrator before performing any work. Applicable policies must be written through an insurance company possessing a rating not less than **A-VII** or higher established by the A.M. Best Company. Note the contractual requirement that the Contractor must provide SVCW advance written notice of at least sixty (60) days in case of cancellation, material change in policy terms or coverage non-renewal.

Contractor's Automobile Liability, General Liability and Excess/Umbrella Liability Policies must name the Silicon Valley Clean Water, its officials, employees and agents and any wholly owned subsidiaries as additional insureds and must state that coverage is afforded on a primary and non-contributory basis.

The Resident Engineers and Area Managers of SVCW have the right to stop work or prevent any non-enrolled Contractor or subcontractor of any tier from entering the Job Site until the Contractor's certificate has been filed. Denial of site access for this reason will not be accepted as the basis for a delay claim.

Waivers of Subrogation

All Contractors and subcontractors of any tier agree to waive all rights of subrogation against each other and Silicon Valley Clean Water, its officers, agents, employees and any of its insurers regarding any insured loss, whether the insurance is provided by the OCIP or purchased by the Contractor for the project.

Contractors and subcontractors of any tier must agree that this waiver applies to its insurers, including any insurance policies covering physical loss or damage to owned, non-owned, or leased machinery, watercraft, vehicles, tools, or equipment.

SVCW shall waive all rights of subrogation against the Contractors and subcontractors of any tier as respects any insured loss covered under the OCIP for those enrolled Contractors and subcontractors.

Exhibit 8B

DESIGN-BUILDER'S INSURANCE REQUIREMENTS

1. Insurance

The insurance requirements specified herein shall cover Design-Builder's own liability and any liability arising out of the Work or services performed under this Agreement by any Design Professional, subcontractor, consultant, supplier, temporary worker, independent contractor, leased employee, or any other persons, firms or corporations (hereinafter collectively referred to as "Agents") that Design-Builder authorizes to work under this Agreement. Design-Builder is required to procure and maintain at its cost and expense the insurance coverages subject to all of the requirements set forth below. Such insurance shall remain in full force and effect throughout the term of this Agreement. Design-Builder is also required to assess the risks associated with Work to be performed by Agents under subcontract and to include in every subcontract the requirement that the Agent maintain adequate insurance coverages with appropriate limits and endorsements to cover such risks. In the event Design-Builder or its Agents procure excess or umbrella coverage to maintain certain requirements outlined below, these policies shall also satisfy all specified endorsements and stipulations, including (where applicable) provisions that the Design-Builder's insurance be primary without any right of contribution from the Owner. Prior to beginning the Work under this Agreement, Design-Builder shall provide the Owner (and any authorized insurance consultant of the Owner) with satisfactory evidence of compliance with the insurance requirements of this Exhibit.

1.1 Minimum Types and Scope of Insurance

1.1.1 Workers Compensation and Employers' Liability Insurance

The Design-Builder shall be prepared to procure and maintain the following Workers Compensation and Employers' Liability Insurance in the specified amounts. The Owner will compare the Design-Builder's price for this coverage with the price for coverage under the OCIP, and may elect at its sole discretion to procure this coverage through the OCIP. Owner will make this decision prior to Stage 2.

- a. Workers' Compensation with Statutory Limits and/or Federal Employer's Liability ("FELA") coverage (whichever is applicable) to its employees, as required by the Federal Employer's Liability Act of 1908, applying to Interstate railroad employees, or, as required by Section 3700 et seq. of the California Labor Code, or any subsequent amendments or successor acts thereto, governing the liability of employers to their employees.
- b. If FELA applies, it shall be in accordance with federal statutes and have minimum limits of \$10,000,000 per occurrence.
- c. If the California Labor Code requiring Workers' Compensation applies, the Design-Builder shall also maintain Employer's Liability coverage with minimum limits of \$10 million.
- d. Such insurance shall include a Waiver of Subrogation.

1.1.2 Professional Liability Insurance

A Professional Liability insurance policy covering errors and omissions and the resulting damages including, but not limited to, economic loss to the Owner and having minimum limits of liability of \$10 million per claim and \$10 million annual aggregate. The policy shall include coverage for all professional services and work performed under this Agreement. In addition, coverage shall include

contingent bodily injury and property damage liability.

Professional liability insurance shall be maintained until Final Acceptance and include an extended reporting period of 10 years from Final Acceptance.

1.1.3 Commercial General Liability Insurance

Commercial General Liability insurance for bodily injury and property damage coverage of at least \$2 million per occurrence or claim and a general annual aggregate limit of at least \$2 million. Such insurance shall cover all of Design-Builder's operations away from the Work site. Such insurance shall not have any exclusion for Cross Liability or Cross-Suits. In addition, for any construction and public works projects, the insurance shall not have any exclusion for Explosion, Collapse and Underground perils (xcu).

- a. This insurance shall include coverage for, but not be limited to:
 - 1. Premises and operations;
 - 2. Products and completed operations;
 - 3. Personal injury; and
 - 4. Advertising injury.
- b. Such insurance shall include the following endorsements as further detailed in the Endorsements Section below:
 - 1. Additional Insured;
 - 2. Separation of Insureds Clause;
 - 3. Primary and Non-Contributory wording; and
 - 4. Waiver of Subrogation.
 - 5. Coverage must be on an occurrence basis.

1.1.4 Business Automobile Liability Insurance

Business Automobile Liability insurance providing bodily injury and property damage coverage with a combined single limit of at least \$10 million per accident or loss.

- a. This insurance shall include coverage for, but not be limited to:
 - 1. All owned vehicles;
 - 2. Non-owned vehicles; and
 - 3. Hired or rental vehicles.
 - 4. Coverage will apply both at and away from Work site.
- b. Such insurance shall include the following endorsements as further detailed in the Endorsements Section below:
 - 1. Additional Insured;
 - 2. Primary and Non-Contributory wording; and
 - 3. Waiver of Subrogation.

1.15 Business Automobile Liability Insurance

The operator of any watercraft or aircraft of any kind used in the Work must maintain liability insurance naming Silicon Valley Clean Water and the respective Contractor and/or subcontractor as an additional insured with primary and non-contributory wording. In addition, the limit of liability must be satisfactory to SVCW. Such insurance requirements will be determined as the need arises.

1.1.6 Property Insurance

Property insurance with Special Form coverage including theft, but excluding earthquake, with limits at least equal to the replacement cost of the property described below.

- a. This insurance shall include coverage for, but not be limited to:
 1. Design-Builder's own business personal property and equipment to be used in performance of this Agreement, whether owned, leased, rented, or borrowed.
 2. Design-Builder is solely responsible for any loss or damage to its personal property including, without limitation, property or materials created or provided under the Agreement until installed, tools and equipment, scaffolding and temporary structures.
- b. Such insurance shall include a Waiver of Subrogation as further detailed in the Endorsements Section below.

1.1.7 Contractor Pollution Liability Insurance

Contractor Pollution Liability insurance for bodily injury and property damage coverage with a combined single limit for bodily injury and property damage of at least \$2 million per occurrence or claim and a general aggregate limit of at least \$2 million. The policy shall also cover economic loss to the Owner. If Design-Builder disposes of Hazardous Materials under this Agreement, Design-Builder shall designate the disposal site and provide a certificate of insurance from the disposal facility to the Owner.

The Design-Builder's Business Automobile Liability Coverage shall also be extended to cover pollution liability during loading; unloading and while in transit including, but not limited to, the perils of collision and upset. Coverage may be provided by endorsement to the General Liability and Automobile policies or by a separate policy.

- a. This insurance shall include coverage for, but not be limited to:
 1. Sudden and accidental discharges;
 2. Gradual discharges;
 3. Clean-up of pollutants and disposal thereof;
 4. Removal or treatment of hazardous materials; and
 5. Mold, asbestos or lead, if an abatement Agreement.
- b. Such insurance shall include the following endorsements as further detailed in the Endorsements Section below:
 1. Additional Insured;
 2. Separation of Insureds Clause;
 3. Primary and Non-Contributory wording; and

4. An MCS-90 Endorsement with a \$5,000,000 limit of liability, if hazardous materials will be transported;
5. Waiver of Subrogation.

1.2 Endorsements

1.2.1 Additional Insured

The referenced policies and any Excess or Umbrella policies shall include as Additional Insureds: Silicon Valley Clean Water, the City of Redwood City, West Bay Sanitary District, the City of San Carlos, and the City of Belmont, and their respective commissioners, directors, officers, employees, volunteers and agents while acting in such capacity, and their successors or assignees, as they now, or as they may hereafter be constituted, singly, jointly or severally.

1.2.2 Waiver of Subrogation

The referenced policies and any Excess or Umbrella policies shall contain a waiver of subrogation in favor of: Silicon Valley Clean Water, the City of Redwood City, West Bay Sanitary District, the City of San Carlos, and the City of Belmont, and their respective commissioners, directors, officers, employees, volunteers and agents while acting in such capacity, and their successors or assignees, as they now, or as they may hereafter be constituted, singly, jointly or severally.

1.2.3 Primary Insurance

The referenced policies and any Excess and Umbrella policies, except for the Contractor Pollution Liability coverage, shall indicate that they are primary to any other insurance and the insurance company(ies) providing such policy(ies) shall be liable thereunder for the full amount of any loss or claim, up to and including the total limit of liability, without right of contribution from any of the insurance effected or which may be effected by the Owner.

1.2.4 Separation of Insureds

The referenced policies and any Excess or Umbrella policies shall contain a Separation of Insureds Clause and stipulate that inclusion of Silicon Valley Clean Water, the City of Redwood City, West Bay Sanitary District, the City of San Carlos, and the City of Belmont shall not in any way affect the Owner's rights either as respects any claim, demand, suit or judgment made, brought or recovered against the Design-Builder. The purpose of this coverage is to protect Design-Builder and the Owner in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the insurance company's liability as set forth in its policy beyond the amount or amounts shown or to which the insurance company would have been liable if only one interest had been named as an insured.

1.3 Evidence of Insurance

1.3.1 All Coverages

Prior to commencing Work or entering onto the Site, Design-Builder shall provide to Owner (and any authorized insurance consultant of Owner) a Certificate of Insurance with respect to each required policy to be provided by the Design-Builder under the Agreement. The required certificates must be signed by the authorized representative of the Insurance Company shown on the certificate. The Project name shall be clearly stated on the face of each Certificate of Insurance.

In addition, the Design-Builder shall promptly notify the Owner of the insurance expiration date and deliver to Owner a certificate of insurance that extends the coverage as necessary to maintain the specified insurance for the duration of the Project. Such certificate shall be delivered to Owner not less than 3 business days after the expiration date of any policy.

1.4 General Provisions

1.4.1 Notice of Cancellation

Design-Builder must provide at least 30 days' prior written notice to the Owner if any of the above policies are non-renewed or cancelled.

1.4.2 Acceptable Insurers

All policies will be issued by insurers acceptable to the Owner (generally with a Best's Rating of A-10 or better).

1.4.3 Self-insurance

Upon evidence of financial capacity satisfactory to the Owner and Design-Builder's agreement to waive subrogation against the Owner respecting any and all claims that may arise, Design-Builder's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance.

1.4.4 Failure to Maintain Insurance

All insurance specified above shall remain in force until all Work to be performed is satisfactorily completed, all of Design-Builder's personnel and equipment have been removed from the Owner property, and Final Acceptance. The failure to procure or maintain required insurance and/or an adequately funded self-insurance program will constitute a material breach of this Agreement.

1.4.5 Claims Made Coverage

If any insurance specified above shall be provided on a claim-made basis, then in addition to coverage requirements above, such policy shall provide that:

- a. Policy retroactive date coincides with or precedes the Design-Builder's start of Work (including subsequent policies purchased as renewals or replacements).
- b. Design-Builder shall make every effort to maintain similar insurance for at least 3 years following Final Acceptance, including the requirement of adding all additional insureds. Note that Design-Builder will be required to maintain certain coverages for 5 years, as described within the above insurance requirements.
- c. If insurance is terminated for any reason, Design-Builder agrees to purchase an extended reporting provision of at least 3 years to report claims arising from work performed in connection with this Agreement.
- d. Policy allows for reporting of circumstances or incidents that might give rise to future claims.

1.4.6 Deductibles and Retentions

Design-Builder shall be responsible for payment of any deductible or retention on Design-Builder's policies without right of contribution from the Owner. Deductible and retention provisions shall not contain any restrictions as to how, or by whom, the deductible or retention is paid. Any deductible or retention provision limiting payment to the Named Insured is unacceptable.

In the event that the policy of the Design-Builder or any Design-Builder contains a deductible or self-

insured retention, and in the event that the Owner seeks coverage under such policy as an additional insured, Design-Builder shall satisfy such deductible or self-insured retention to the extent of loss covered by such policy for a lawsuit arising from or connected with any alleged act or omission of Design-Builder, or any Design-Builder team member, even if Design-Builder (or any Design-Builder team member) is not a named defendant in the lawsuit

**Exhibit 8C
PAYMENT BOND**

PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS: that, WHEREAS, the Commission of Silicon Valley Clean Water, a public entity located in San Mateo County, State of California, has awarded to _____

_____ hereinafter designated as "Principal, a Contract for construction of:

GRAVITY PIPELINE PROGRESSIVE DESIGN-BUILD PROJECT CIP#6008

WHEREAS, the Principal is required to furnish a bond in connection with said Contract, providing that if said Principal, or any of it or its subcontractors, shall fail to pay for any materials, provisions, or other supplies or teams used in, upon, for or about the performance of the Work contracted to be done, for any work or labor thereon of any kind, or claims to which reference is made in Section 9554 of the Civil Code, the Surety of this bond will pay the same to the extent hereinafter set forth:

NOW, THEREFORE, we, the Principal and _____, as Surety, are held and firmly bound unto Silicon Valley Clean Water in the penal sum of _____ Dollars, (\$ _____), lawful money of the United States of America, being not less than one hundred (100) percent of the Contract Amount, 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 if said Principal, his/her or its heirs, executors, administrators, successors, transferees assigns, or subcontractors, shall fail to pay any of the persons named in Section 9100 of the Civil Code, for any materials, provisions, or other supplies or teams used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, as required by the provisions of Act of the Legislature of the State of California entitled "An Act to secure the payment of persons who furnished materials, contractors in the performance of such work and prescribing the duties of certain public officers with respect thereto", approved May 10, 1919, as amended, (Calif. Civil Code Sec. 9550 et seq.), and provided that the persons, companies, or corporations so furnishing said materials, provisions, or other supplies, teams, appliances, or power to be used in, upon for, or about the performance of the work contracted to be executed or performed, or any person, power for or contributing to said Work to be done, or any person who performs work or labor upon same, or any person who supplies both work and materials therefor, shall have complied with the provisions of said Act, then said Surety will pay the same in or to any amount not exceeding the amount herein above set forth, and also will pay in case suit is brought upon this bond, such reasonable attorney's fee as shall be fixed by the court, awarded and taxed as in the above-mentioned statute provided.

Furthermore, if said Principal, his/her or its heirs, executors, administrators, successors, transferees assigns, or subcontractors, shall fail to pay amounts due under the Unemployment Insurance Code with respect to work or labor performed under this Contract, or any amounts required to be deducted, withheld and paid over to the Employment Development Department from the wages of employees of the Contractors and his subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor, the Surety will pay for the same, in an amount not exceeding

the sum specified in this bond and will also pay, in case suit is brought upon this bond, a reasonable attorney's fee, to be fixed by the court.

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

This bond is given to comply with Sections 9550 and 9554 of the Civil Code. The liability of the PRINCIPAL and SURETY hereunder is governed by the provisions of said Code, all acts amendatory thereof, and all other statutes referred to therein, including Section 3225 of the Civil Code.

And the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the work to be performed thereunder, or the Specifications accompanying the same shall in any wise affect its obligations on this bond; and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work, or to the Contract Documents.

IN WITNESS WHEREOF, the above bounded parties have executed this instrument under their seals this ____ day of _____, 20____, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

Principal

Name

Title

Signature

(SEAL)

Surety

Name

Title

Signature

(SEAL)

STATE OF CALIFORNIA) ss.

CITY AND COUNTY OF _____)

On _____, 2017 before me, _____, Notary Public, personally appeared _____, personally known to me (or 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.

Witness my hand and official seal.

Notary Public

STATE OF CALIFORNIA)
) ss.
CITY AND COUNTY OF _____)

On _____, 2017 before me, _____, Notary Public, personally appeared _____, personally known to me (or 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.

Witness my hand and official seal.

Notary Public

Surety shall have an AM Best rating of A:VII, or better.

Exhibit 8D
PERFORMANCE BOND

BOND OF FAITHFUL PERFORMANCE

KNOW ALL PERSONS BY THESE PRESENTS: that, WHEREAS, the Commission of Silicon Valley Clean Water, a public entity located in San Mateo County, State of California, has awarded to _____, hereinafter designated the "Principal", a Contract for constructing

GRAVITY PIPELINE PROGRESSIVE DESIGN-BUILD PROJECT CIP#6008

WHEREAS, the Principal is required under the terms of the Contract to furnish a bond for the faithful performance of said Contract:

NOW, THEREFORE, we, the Principal and _____, as Surety, are held and firmly bound unto Silicon Valley Clean Water in the penal sum of (\$ _____), lawful money of the United States of America, being not less than one hundred (100) percent of the Contract Amount, to be paid to Silicon Valley Clean Water or its successors and assigns; 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 if the above bounded Principal, his/her or its heirs, executors, administrators, successors, transferees or assigns approved by Silicon Valley Clean Water, shall in all things stand to and abide by, and well and truly keep and faithfully perform the covenants, conditions, and agreements of said Contract, during the original term and any extensions thereof as may be granted by Silicon Valley Clean Water, with or without notice to Surety, and during the period of any guarantees or warranties required under the Contract, and shall also promptly and faithfully perform all covenants, conditions, and agreements of any alteration of the Contract made as therein provided, notice of which alterations to Surety being hereby waived, provided on the Principal's part to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless Silicon Valley Clean Water, its officers employees and agents, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a condition precedent to the satisfactory completion of the said Contract, the above obligation may be reduced to the amount of _____ Dollars, (\$ _____), being not less than twenty (20) percent of the Contract Amount, and shall hold for a period of ten (10) years , during which time if the above bounded Principal, his/her or its heirs, executors, administrators, successors transferees or assigns shall fail to make full, complete and satisfactory repair and replacements or totally to protect Silicon Valley Clean Water from loss or damage made evident during said period from the date of Acceptance of said Work, and resulting from or caused by defective materials or faulty workmanship in the prosecution of the work done, design work, or failure to satisfy the design-life warranty as set forth in the Contract, the above obligation in said sum of _____

Dollars, (\$ _____), shall remain in full force and effect, otherwise the above obligation shall be void.

Whenever Principal shall be declared by Silicon Valley Clean Water to be in default under the Contract, Surety shall promptly remedy the default, or shall promptly do one of the following at Silicon Valley Clean Water's election:

1. Undertake through its agents or independent Contractors, reasonably acceptable to Silicon Valley Clean Water, to complete the Contract in accordance with its terms and conditions and to pay and perform all obligations of Principal under the Contract, including without limitation, all obligations with respect to warranties, guarantees, and the payment of liquidated damages.
2. Reimburse Silicon Valley Clean Water for all costs Silicon Valley Clean Water incurs in completing the Contract, and in correcting, repairing or replacing any defects in materials or workmanship and/or materials and workmanship which do not conform to the specifications in the Contract.

Further, the Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder or the Specifications accompanying the same shall release or exonerate Surety on this bond or in any wise affect its obligations on this bond; and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work, or to the Contract Documents.

Surety's obligations hereunder are independent of the obligations of any other surety for the performance of the Contract, and suit may be brought against Surety and such other sureties, jointly and severally, or against any one or more of them, or against less than all of them without impairing Silicon Valley Clean Water's rights against the others.

No right of action shall accrue on this bond to or for the use of any person or corporation other than Silicon Valley Clean Water or its successors or assigns.

In the event Silicon Valley Clean Water, or its successors or assigns, shall be the prevailing party in an action brought upon this bond, then in addition to the penal sum hereinabove specified, Principal and Surety, jointly and severally, agree to pay to Silicon Valley Clean Water or its successors or assigns, a reasonable sum on account of its attorney's fees incurred in such action, which sum shall be fixed by the court.

IN WITNESS WHEREOF, the above bounded parties have executed this instrument under their seals this _____ day of 20____, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative pursuant to authority of its governing body.

Principal

Name

Title

Signature

(SEAL)

Surety

Name

Title

Signature

(SEAL)

STATE OF CALIFORNIA) ss.

CITY AND COUNTY OF _____)

On _____, 2017 before me, _____, Notary Public, personally appeared _____, personally known to me (or 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.

Witness my hand and official seal.

Notary Public

STATE OF CALIFORNIA)

) ss.

CITY AND COUNTY OF _____)

On _____, 2017 before me, _____, Notary Public, personally appeared _____, personally known to me (or 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.

Witness my hand and official seal.

Notary Public

Surety shall have an AM Best rating of A:VII, or better.

EXHIBIT 9
CLEAN WATER STATE REVOLVING FUND REQUIREMENTS

To be inserted into final agreement.

Exhibit 10
US EPA REQUIREMENTS

To be inserted into final agreement.

Exhibit 11
RFP AND PROPOSAL

To be inserted into final agreement.

Exhibit 12
RFQ AND STATEMENT OF QUALIFICATIONS

To be inserted into final agreement.

Attachment C

Draft Responsibility Matrix

Attachment C. Draft Responsibility Matrix (P – Primary)			
Item / Task	Responsibility Allocation		Item / Task Definition
	SVCW	Design-Builder	
Environmental Review	P		Completion and acceptance of Environmental Impact Report and CEQA review for project as currently defined
Environmental Permits	P		Obtain COE, BCDC, CAFWS permits for project as currently defined
Right of way	P		Obtain easements and agreements for alignment and staging areas for project as currently defined
Modification to CEQA, Environmental Permits and right of way		P	Changes needed due to Design-Builder ideas that are different from project as defined in CEQA review and environmental permits
Construction Permits		P	Construction permits after contract execution (e.g., city road excavation permits)
Environmental Compliance		P	Compliance with applicable CEQA and permit conditions
Design integration between FoP and GP		P	Contracts for the two projects will require design coordination from both teams to work together and with SVCW to establish construction “turnover” milestones for the RLS shaft
Approval of “turnover” milestones and FoP compliance	P		SVCW responsible for approving the “turnover” milestones and for FoP compliance with the “turnover” milestones
Design Liability		P	Preconstruction services scope will include task for Design-Builder to review and accept or propose modifications to design criteria and design concepts previously developed
Existing Geotechnical Information	P		SVCW will provide existing geotechnical information but will only allow Design-Builder to rely on data (not interpretation)
Evaluation of existing geotechnical information		P	Design-Build team will be required to have its own geotechnical / foundation engineer for interpretation
Site Investigation after Contract Finalization		P	Preconstruction services scope will include task for Design-Builder to conduct further geotechnical and groundwater studies
Approval of Geotechnical Baseline Report	P		SVCW responsible for approving the GBR prepared by Design-Builder collaboratively with SVCW during Stage 1 Preconstruction
Reasonably Foreseeable Site Conditions and Buried Utilities		P	Design-Builder will have responsibility for conditions that could be reasonably foreseen

Attachment C

Draft Responsibility Matrix

Attachment C. Draft Responsibility Matrix (P – Primary)			
Item / Task	Responsibility Allocation		Item / Task Definition
	SVCW	Design-Builder	
Site Conditions and Buried Utilities that could not be reasonably foreseen by Design-Builder	P		SVCW will have the risk of site conditions that could not be reasonably foreseen by the Design-Builder (as defined in the contract)
Condition Assessment of Existing Connection Points after Contract Finalization		P	Preconstruction services scope will include task for Design-Builder to conduct condition assessment of accessible connection points. Design-Builder will propose additional work required to utilize proposed connection points or alternatives
Future Influent Characteristics	P		SVCW is responsible for changes in influent characteristics over time
Existing Influent Characteristics		P	Design-Builder responsible for confirming existing influent characteristics as needed to design for 100 year service life
Facility Life of 100 Years Performance		P	Design-Builder responsible for achieving 100 year service life with reasonable maintenance and operational parameters considering life cycle costs
Project Scope and Quality Definition	P		SVCW responsible for defining project scope and quality objectives and approving changes affecting project scope and quality
Design Build Cost		P	Design-Builder will be responsible for designing and constructing project to be the lowest practical capital and life cycle cost to meet SVCW objectives and keep costs within SVCW CIP budget allocated to Design-Builder
Construction Schedule		P	Design-Builder responsible for achieving the best practical safe speed to complete the tunnel and inlet structures so that the existing pipeline and pump stations can be taken out of operation as early as reasonably possible
Delays to FoP Project Due to GP Project		P	Delays due to failure of GP Design-Builder to meet turnover milestone at exit shaft
Construction Quality		P	Design-Builder responsible to meet standards established in contract
Financing and Payment	P		SVCW is responsible for obtaining financing and timely payment to the Design-Builder
Changes in Law	P		SVCW responsible if laws or regulations change after contract execution
Labor Relations		P	Design-Builder responsibility

Attachment D Proposal Forms

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Attachment D.1

Affidavit of Authenticity

The following affidavit shall be executed, notarized, and submitted for each legal entity that is a member of the Respondent as identified in the Proposal.

State of California

County of San Mateo

Before me, the undersigned authority, personally appeared _____, who, having been by me duly sworn, made the following statement:

"I am authorized to make this affidavit on behalf of _____, a participating legal entity in the attached Proposal dated _____, 2017, and submitted in response to

Request for Proposals (RFP) issued by Silicon Valley Clean Water for the Gravity Pipeline Design-Build. All information pertaining to _____ and provided in the attached Proposal is to the best of my knowledge, true and correct and if called upon to testify, I could testify competently thereto.

I acknowledge receipt of the Addenda to this RFP by identifying the following Addenda numbers and dates of receipt (if any): _____

(Signature)

(Printed Name)

(Date)

(Design-Build Respondent Firm)

Attachment D.1
Affidavit of Authenticity

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Attachment D.2
Insurance Company Letter of Intent

(to be typed on Insurance Company Letterhead)

Attn: Teresa Herrera
1400 Radio Road
Redwood City, CA 94065

SUBJECT: Gravity Pipeline Project— Letter of Intent to Insure

Dear Ms. Herrera:

_____ (“the Proposer”) has submitted herewith a Proposal in response to the Request for Proposals (RFP) for the Gravity Pipeline Project (Project), issued by the Silicon Valley Clean Water (the “Owner”) on _____, 2017, as amended, pursuant to which it is seeking to be selected by the Owner to deliver the Project described in the Proposal.

Over the past three years, the Respondent is known to have an average Experience Modification Rate of _____.

The Insurance Company has reviewed the Owner’s RFP and the Proposer’s Proposal. The Insurance Company hereby certifies that it intends to provide all required insurance as described in the Owner’s RFP in the event the Proposer is selected for final negotiations and execution of the Design-Build Contract by the Owner.

Name of Insurance Company

Name of Authorized Signatory

Signature

Title

Attachment D.2
Insurance Company Letter of Intent

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Attachment D.3
Surety Letter of Intent

**(to be typed on Surety Company
letterhead)**

Attn: Teresa Herrera
1400 Radio Road
Redwood City, CA 94065

SUBJECT: Gravity Pipeline Project Proposal – – Letter of Intent to Issue Security

Dear Ms. Herrera:

_____ (“the Proposer”) has submitted herewith Proposal in response to the Request for Proposals (RFP) for the Gravity Pipeline issued by Silicon Valley Clean Water (the “Owner”) on _____, 2017, as amended, pursuant to which it is seeking to be selected by the Owner to deliver the Gravity Pipeline described in the Request for Proposals.

The Surety has reviewed the Owner’s RFP and the Proposer’s Proposal. The Surety hereby certifies that it intends to issue on behalf of the Proposer, as security for performance under the Design-Build Contract, a Performance Bond and a Payment Bond for the benefit of the Owner, in the event the Proposer is selected for final negotiations and execution of the Design-Build Contract. The Performance Bond and the Payment Bond will each be in an amount equal to the value of the Guaranteed Maximum Price or Lump Sum for Stage 2 Work.

Name of Surety

Name of Authorized Signatory

Signature

Title

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Attachment D.4

Public Works Contractor Registration Form

Pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. See <http://www.dir.ca.gov/Public-Works/PublicWorks.html> for additional information.

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

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

Name of Bidder: _____

DIR Registration Number: _____

Bidder further acknowledges:

- (1) Bidder shall maintain a current DIR registration for the duration of the project.
- (2) Bidder shall include the requirements of Labor Code sections 1725.5 and 1771.1 in its contract with subcontractors and ensure that all subcontractors are registered at the time of the bid opening and maintain registration status for the duration of the project.

Name of Bidder: _____

Signature _____

Name and title: _____

Dated: _____

Attachment D.4
Public Works Contractor Registration Form

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Attachment D.5
Non-Collusion Declaration

**NON-COLLUSION DECLARATION TO BE EXECUTED BY PROPOSER
AND SUBMITTED WITH PROPOSAL**

The undersigned declares:

I am the _____ of _____ ("Proposer"), the party making the foregoing Proposal.

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

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

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

Signature of Proposer

Title

Date

Attachment D.5
Non-Collusion Declaration

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Attachment D.6
Iran Contracting Prohibition Certification

IRAN CONTRACTING PROHIBITION CERTIFICATION

Section 2200 et seq. of the California Public Contract Code prohibits a person from submitting a proposal for a contract with a public entity for goods and services of \$1,000,000 or more if that person is identified on a list created by the Department of General Services (DGS) pursuant to Section 2203(b) of the California Public Contract Code. The list will include persons providing goods or services of \$20,000,000 or more in the energy sector of Iran and financial institutions that extend \$20,000,000 or more in credit to a person that will use the credit to provide goods or services in the energy sector in Iran. DGS is required to provide notification to each person that it intends to include on the list at least 90 days before adding the person to the list.

In accordance with Section 2204 of the California Public Contract Code, the undersigned hereby certifies that:

It is not identified on a list created pursuant to Section 2203(b) of the California Public Contract Code as a person engaging in investment activities in Iran described in Section 2202.5(a), or as a person described in Section 2202.5(b), as applicable; or

It is on such a list but has received permission pursuant to Section 2203(c) or (d) to submit a bid or proposal in response to this RFP CIP # 6008 for the Silicon Valley Clean Water Gravity Pipeline Progressive Design Build Project.

Note: Providing a false certification may result in civil penalties and sanctions.

Date: _____
Entity: _____

Signature: _____
Printed Name _____
Title: _____

Note: this form shall be executed by the Proposer and each joint venture member of the Proposer.

Attachment D.6
Iran Contracting Prohibition Certification

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Attachment D.7

Organizational Conflict of Interest Certification

ORGANIZATIONAL CONFLICT OF INTEREST CERTIFICATION

The undersigned hereby certifies as follows:

1. I am aware that the Organizational Conflict of Interest Policy of SVCW prescribes responsibilities, general rules, and procedures for identifying, evaluating, and resolving organizational conflicts of interest.

2. I am aware that, under SVCW's Organizational Conflict of Interest Policy, an organizational conflict of interest may exist in the following circumstances: a) a Proposer is SVCW's general engineering or architectural consultant for the design-build project, except that a sub-consultant of the general engineering or architectural consultant that has not yet performed work on the contract to provide services for the design-build project may participate as a Proposer or join a design-build team if the Proposer terminates the agreement to provide work and provides no work for SVCW's general engineering or architectural consultant on the design-build project; b) a Proposer has assisted or is assisting SVCW in the management of the design-build project, including the preparation of the request for proposals, evaluation criteria, or any other aspect of the procurement; c) a Proposer has conducted preliminary design services for the design-build project such as conceptual layouts, preliminary design, or preparation of bridging documents; d) a Proposer performed design work related to the design-build project for other stakeholders in the design-build project; e) a Proposer performed design work on a previous contract that specifically excludes the Proposer from participating as a Proposer or joining any design-build team for the design-build project; f) a Proposer is under contract with any other entity or stakeholder to perform oversight of the design-build project; and g) any circumstances that would violate California Government Code Section 1090, et seq.

3. _____, its officers, employees, and agents are subject
(Company Name)
to the provisions of SVCW's Organizational Conflict of Interest Policy.

A diligent search of the relationships and interests of _____
(Company Name)
its officers, employees, and agents, has been conducted to determine whether any organizational conflict of interest may exist relating to or resulting from RFP CIP# 6008 or any contract that may be entered as a result of this Request for Proposal.

Attachment D.7

Organizational Conflict of Interest Certification

4. _____, its officers, employees, and agents have an (Company Name) organizational conflict of interest, or a potential organizational conflict of interest, under SVCW's Conflict of Interest Policy.

_____, proposes the following measures to avoid, (Company Name) neutralize, or mitigate all potential or actual conflicts.

5. If an organizational conflict of interest, or a potential organizational conflict of interest, is discovered at any time in the future _____, will submit an updated Organizational Conflicts of (Company Name) Interest Disclosure Form, notifying SVCW of the existence and nature of the conflict, or potential conflict, within three (3) Working Days following the discovery of the actual or potential organizational conflict of interest.

Signature: _____

Printed Name: _____

Title: _____

Company: _____

Attachment D.8
Worker's Compensation Certification

WORKER'S COMPENSATION CERTIFICATION

By signing below, Proposer is aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provision of the code, and if awarded a Contract, Proposer will comply with such provisions before commencing the performance of the work of this Contract.

Firm Name: _____

Signature of Authorized Official: _____

Name of Authorized Official: _____

Title of Authorized Official: _____

Date: _____

Note: This form must be executed by the Proposer and all joint venture members of the Proposer.

Attachment D.8
Worker's Compensation Certification

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Attachment D.9
California Professional Engineer Licensing

CALIFORNIA PROFESSIONAL ENGINEER LICENSING

This certification applies to the offer submitted in response to this solicitation and will be a continuing requirement during the term of the contract. The persons for the entities listed in the roles below certify that, at the time of the Proposer's Proposal submittal in response to this RFP, they possess the appropriate California professional license.

Role: Principal Engineer _____
Entity: _____
Signature: _____
Printed Name: _____
CA License No.: _____

Role: Lead Designer _____
Entity: _____
Signature: _____
Printed Name: _____
CA License No.: _____

(Mark one, below, with an "x")

☐ Certify to the above ☐ Cannot certify to the above.

If the "cannot certify" box is checked, attach an explanation of the reasons.

Organization Name, Address, and Telephone

Name, Title, and Signature of Person Certifying

Print or Type Name & Title: _____

Signature: _____ Date: _____

Note: Providing a false certification may result in civil penalties and sanctions.

Note: this form shall be executed by the Proposer and each Major Participant.



Attachment D.9
California Professional Engineer Licensing

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Attachment E

Scope of Work Outline

The Proposer shall provide a complete description of the scope of work proposed for Stage 1 services up through and including development of the Stage 2 contract price and negotiation of an amendment for Stage 2 services. The Proposer's scope of work, schedule and Stage 1 price shall generally follow the scope of work outlined below, with modification, additional content and detailing offered by the Proposer to conform the scope of work to its project approach and fee.

The scope of work below shall be modified by the Proposer to include approaches that the Proposer suggests to facilitate timely collaborative input. Proposer's scope of work shall identify complete scoping, schedule and pricing assumptions necessary to achieve completion of 60% design and negotiation of a price to complete Stage 2 (100% design and construction). Any exclusions should be limited and clearly noted. Submit with the Stage 1 scope of work a list of deliverables (documents, drawings and technical specifications list) that are estimated to be completed to satisfy the requirements of Stage 1.

Task 1 - Stage 1 Services

Task 1.1 - Background Documents Review and Validation

The Design-Builder shall:

1. Review existing Project requirements, goals, objectives, and constraints.
2. Review Reference Documents and any other existing Project documentation provided by THE OWNER including all documents relating to investigations and analyses from previous work efforts, such as surveys, topographic surveys, geotechnical investigations, design plans, CEQA documents, and permitting plans.
3. Identify, consult with (after conferring with Owner – Owner feels the nature and content of contact with government agencies and authorities is important and should first be discussed), and analyze requirements of governmental agencies and authorities having jurisdiction to approve aspects of the Project.
4. Evaluate the Base Design Criteria and, after consultation with THE OWNER, recommend to THE OWNER any modifications to such documents that in Design-Builder's judgment would benefit the Project.

Attachment E

Scope of Work Outline

5. Consult with THE OWNER to define site constraints, project requirements, and design preferences.
6. Conduct workshops with THE OWNER to discuss, confirm, and refine as necessary the following:
 - a. Findings and observations;
 - b. Coordination with FoP re RLS shafts;
 - c. Launch and retrieval shafts including possible launch from Bair Island
 - d. Hydraulic requirements;
 - e. Geotechnical requirements
 - f. Hydrogen sulfide control process and alternatives for achieving 100 year service life (includes air, odor and corrosion modeling);
 - g. Project Base Design Criteria;
 - h. Operations and maintenance (O&M) requirements.
7. Prepare and provide to THE OWNER meeting agenda and meeting minutes documenting workshop results.

Task 1.2 - Additional Investigation and Reporting

Task 1.2.1 – Additional Geotechnical Investigations

Provide additional geotechnical investigations to supplement the previously completed geotechnical work by THE OWNER as required to support Design Builder's due diligence requirements for a complete design.

Task 1.2.2 – Geotechnical Data Report (GDR) Update and Geotechnical Baseline Report (GBR) Preparation

The Design-Builder shall perform a comprehensive geotechnical investigation and prepare a geotechnical baseline report (GBR) for the Project. The investigations shall include identification of specific boring locations along the alignment to the extent needed by the Design Builder. At a minimum, the Design-Builder shall:

1. Submit to THE OWNER the proposed geotechnical investigation scope of services for the Owner's review. The draft scope shall identify proposed boring locations and depths, permits required, testing, analyses, and recommendations that will be developed.

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2. Upon review of the geotechnical investigation scope of services by THE OWNER, commence with geotechnical investigations in accordance with approved scope of services. The geotechnical investigation shall be performed and GBR prepared to establish the geotechnical conditions of the Gravity Pipeline for the purposes of design, development of costs, and construction of the Project facilities. The shall also address underground utilities and structures. The Design-Builder is responsible for determining the number of borings, location of borings, and depth of borings required for the GBR.
3. Submit to THE OWNER an electronic copy in Adobe PDF and WORD format of the draft GBR for review by the Owner. An electronic copy in Adobe PDF and WORD format of the final GBR shall be submitted to THE OWNER based upon comments received from THE OWNER. Both the OWNER and the Design-Builder shall approve the GBR.

Task 1.2.3 – Additional Surveying

The Design-Builder shall perform a comprehensive site survey for the Project, performed by a Professional Land Surveyor licensed in California. At a minimum, the Design-Builder shall:

1. Submit to the Owner a draft of the proposed site survey scope of services for the Owner's review, prior to proceeding with the surveying tasks. The draft scope of services shall include information on proposed utility services, benchmarks, integration or reliance upon THE OWNER information, and procedures for identifying underground utilities. Coordination and tying in with other SVCW projects such as the FoP, pipeline and pump station projects shall be accomplished.
2. Upon approval of scope of services by the Owner, commence with site survey. The Design-Builder is responsible for the independent verification and confirmation of any survey information provided by the Owner.
3. Submit to THE OWNER an electronic copy in Adobe PDF and AutoCAD format of the draft site survey drawing(s) for review by the Owner. An electronic copy in Adobe PDF and AutoCAD format of the final site survey drawings shall be submitted to THE OWNER based upon comments received from THE OWNER.

Task 1.2.4 – Subsurface Utility Engineering (SUE)

Conduct utility surveys of the Gravity Pipeline and the limits of work. Call out all identified utilities within the limits of work. Provide potholing of any critical utilities that may have

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substantial impact on the design or constructability of the project. Utilities shall be identified in general conformance with ASCE 38-02, and included with the design drawings.

Task 1.3 – Initial Project Development

Provide initial project development for the Gravity Pipeline, including confirmation of the pipeline's hydraulic requirements, CEQA and regulatory requirements, and interface with the Receiving Lift Station (RLS).

Explore with THE OWNER alternatives and recommend an approach to internal and external corrosion protection for the Gravity Pipeline defining an approach that results in a Gravity Pipeline with a 100 year life with periodic maintenance.

Task 1.4– Basis of Design Report (BODR)

The Design Builder shall prepare and deliver to THE OWNER a draft Basis of Design Report (BODR) that will, as appropriate, contain site investigation results; alternative evaluations and recommendations; design criteria development; project feature design development; engineering analyses to support designs, including TBM requirements, launch and receiving shaft requirements; RLS shaft(s) design, identification of regulatory requirements; and quality management reviews. BODR shall include results of air movement modeling, and recommendations for odor and corrosion control. The BODR shall include descriptions of any proposed deviations from the Base Design Criteria.

Define the slope and diameter of the Gravity Pipeline that will connect to the RLS. Preliminary design and engineering work by THE OWNER has arrived at a minimum slope of 0.0015 feet/foot with an inside diameter of at least 11 feet and preferably 13 feet. Design-Builder shall review this slope and diameters and either recommend acceptance of these values as Design-Builder's own design, or propose alternatives.

Coordinate with THE OWNER and the FoP Design-Builder to obtain and develop all relevant hydraulic, air, odor and corrosion modeling information, and incorporate it into Design-Builder's design work for the Gravity Pipeline. Note that the FoP Design-Builder and the Gravity Pipeline Design Builder, and SVCW shall coordinate extensively to define equalization flow scenarios and corresponding air movement, odors and corrosion. The FoP Design Builder will provide its model of wastewater hydraulics given that the operation of the RLS will define wastewater flow scenarios in the Gravity Pipeline. For the purposes of controlling sulfides in the Gravity Pipeline Design Builder, the Gravity Pipeline Design Builder shall model air flow, odor, and corrosion in the Gravity Pipeline based on the flow equalization scenarios defined by the FoP Design Builder. Parameters affecting air movement will be exchanged and agreed upon and both the FoP Design

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Builder and Gravity Pipeline Design Builder shall be independently responsible for their own air flow estimates.

At a minimum, the BODR shall include the following:

1. Project summary, goals/objectives, and requirements
2. Overall gravity pipeline design
3. Interface with the RLS
4. Approach to launch and receiving shafts, including configuration and support
5. Hydraulic design criteria and supporting design calculations
6. Hydrogen sulfide mitigation process
7. Permitting plan
8. Capital and operational cost estimates
9. Schedule and construction phasing plan
10. Risk register

The BODR shall include a sufficient number of two-dimensional (2D) and three dimensional (3D) drawings to adequately depict the conceptual-level design of the facilities. Plan and profile 2D drawings shall be generated at a scale of 1"=40'H:1"=4'V, unless otherwise agreed to with THE OWNER. BIM 3D modeling consistent with FoP BIM 3D is preferred.

Furnish eight (8) paper copies and an electronic copy in Adobe PDF and WORD format of the draft BODR (and any other deliverables) to the Owner.

Schedule and facilitate one (1), 8-hour review meeting with THE OWNER to present and review Basis of Design Report, cost estimate, and schedule.

Revise the BODR (and any other deliverables) in response to THE OWNER's comments, as appropriate, and furnish eight (8) paper copies and an electronic copy in Adobe PDF and WORD format of the revised BODR (and any other deliverables) to The OWNER.

Task 1.5 – Engineering Design Development

The design process will be transparent and collaborative with the Design-Builder providing the Owner with continuous access to the developing design. Design-Builder will review options and concepts with THE OWNER and incorporate OWNER directions that are consistent with the Base Design Criteria and BODR.

Design-Builder will present Construction Documents consistent with the BODR to THE OWNER for review and approval at 30% and 60% design completion levels during Stage 1. The 60% Construction Documents will be submitted to THE OWNER for approval. The 60% Construction

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Documents will then be incorporated into the Agreement through a Stage 2 Amendment, and will include all previously approved design submissions.

During Stage 2, the Design-Builder will complete the design to 100%. The 100% Construction Documents will include complete civil, structural, mechanical and electrical design drawings, equipment/material cut sheets and specifications incorporating all necessary dimensions and detailing necessary to secure all applicable permits, and facilitate construction through a design-build delivery model.

Geotechnical Baseline Report (GBR). The Design-Builder shall prepare and submit a draft GBR with the 30% design submittal, building from the GDR Update and in alignment with the BODR and 30% Design. The GBR shall be prepared to establish the geotechnical conditions of the Gravity Pipeline for the purposes of design, development of costs, and construction of the Project facilities. The GBR shall also address underground utilities and structures. The GBR shall be prepared in general accordance with ASCE's suggested guidelines described in "*Geotechnical Baseline Reports for Underground Construction*".

Building Information Modeling. The Design-Builder will develop a Building Information Model ("BIM") for use throughout the design and construction process as an integral part of the design process to facilitate the development of alternatives, design reviews, coordination with the FoP Project, construction scheduling/ sequencing reviews, cost estimating, and post-construction data migration into THE OWNER's asset management system. BIM protocols shall be coordinated with the FoP PDB and SVCW, developed and proposed to SVCW for consideration and approval.

Engage with THE OWNER's Operations and Management (O&M) staff throughout the design process and include virtual "walk-throughs" of the BIM models to familiarize O&M staff with the proposed project and solicit feedback. THE OWNER highly values the integration and collaboration with O&M groups during the design process.

The Design-Builder will construct the Project in accordance with the BIM and other Contract Documents, subject to any subsequent modifications. It is anticipated that some design information will not be incorporated into the BIM, but will be provided as conventional 2D or CAD files. Some design information will only be contained in the written specifications. The BIM, the 2D drawings, and the written specifications are all Construction Documents, which are complementary, and what is required by one is required in all.

Mechanical, electrical, plumbing, fire protection and fire and life safety work will be coordinated through the BIM, as appropriate, to avoid obstructions, conflicts, keep openings and other passageways clear, overcome interference with structural, framing, and equipment conditions, and coordinate with other trades.

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The Design-Builder shall furnish to THE OWNER eight (8) paper copies of each 30%, and 60% Construction Documents submittal, and an electronic copy in Adobe PDF and WORD format.

Submission of Signed and Stamped Drawings. In order to obtain necessary permits and to comply with professional registration statutes, 2D drawings, calculations and specifications must be generated, reviewed, sealed and submitted to reviewing agencies and authorities (after review and comment by SVCW). The responsible member of the Design Build Team will sign and stamp their respective drawings, specifications and calculations.

Design-Builder and THE OWNER shall meet and confer about the submissions, with Design-Builder identifying during such meetings, among other things, the evolution of the design and any changes to the BODR. Design-Builder shall prepare agenda and minutes for each review meeting. Design-Builder shall maintain a comment/response log, and incorporate said responses into the subsequent Technical Exhibit Submittal.

Throughout the design process, the Design-Builder will provide THE OWNER with constructability reviews, estimates, and schedule impacts and will alert THE OWNER of any design requirements or details adversely affecting constructability, cost, sustainability, maintenance, or Contract completion.

Task 1.6 – Cost Estimates

The Design-Builder shall develop and maintain a cost model for the Gravity Pipeline Project that is updated with the evolution of the design and is developed in an “Open Book” format such that all costing details are transparent and openly shared with THE OWNER. The Design-Builder shall submit copies of its cost model in hard-copy, Adobe PDF and spreadsheet (or other native form) formats monthly, at key decision points and with the BODR, 30% and 60% design submittals. Focused cost estimates shall be prepared as needed in support of alternatives analyses.

Design-Builder and THE OWNER shall meet and confer about the submissions, with Design-Builder identifying the evolution of the costs. The Design-Builder shall revise the Cost Estimates (and any other deliverables) in response to THE OWNER’s comments, and incorporate said responses into the subsequent Cost Estimates submittal.

Task 1.7 – Project Schedules

The Design-Builder shall develop and maintain both Stage 1 (Preconstruction) and Stage 2 (100% design and construction) project schedules for the Gravity Pipeline. The Stage 1 schedules will have more specifics regarding key decision processes and dates. The Stage 2 schedule will be

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designed to allow for analysis of the impact of various design changes on the construction schedule.

1. All schedules shall be prepared using Primavera P6 scheduling software (latest version).
2. Schedules shall be submitted as electronic files (native and Adobe PDF format) and hardcopy and shall be updated monthly with the cost estimates to show progress and changes.
3. Prepare a baseline Stage 1 schedule that details activities up to the Stage 2 Amendment. The Stage 1 Schedule shall include at a minimum:
 - a. Start date for each activity
 - b. Finish date for each activity
 - c. Early priority milestones
 - d. Major milestones
 - e. Meeting and workshop dates
 - f. Submittal dates including draft submission dates, THE OWNER review periods, and final submission dates
 - g. Float
4. Prepare a Stage 2 schedule that summarizes activities for final design and construction including phasing of Stage 2 Amendments (e.g., TBM purchase, shaft construction, segment manufacturing). This Stage 2 schedule will be used to assist in evaluation of alternatives and changes to the project proposed during Stage 1. As work progresses towards the Stage 2 Amendment the Stage 2 Schedule shall become more detailed.
5. The baseline Stage 1 and Stage 2 schedules shall be based upon the schedule submitted with the Design-Builder's Proposal and shall be submitted for the first Stage 1 Design-Build Meeting.
6. Three-week look-ahead schedules shall be prepared for each weekly meeting with the Owner and shall highlight key design decisions that will be needed to facilitate completion at the designated time.
7. Stage 1 and Stage 2 schedule updates shall be submitted monthly along with each cost estimate and with each Design Submittal.

Notwithstanding the above, the Design-Builder will have the option, upon approval from the Owner, to phase Stage 2 for the purpose of expediting completion of the Project. The Project

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Schedule will be revised to reflect any Owner approved phasing of Stage 2. Phasing must be proposed with the ability to maintain Owner off-ramps.

Task 1.8 – Permitting

The Design-Builder shall:

1. Consult with THE OWNER relative to applicable project permits.
2. Develop a Project Permitting Plan. The Design-Builder will hold many of the permits and shall develop permit applications and supporting documentation, such as studies, environmental surveys, or other materials, in accordance with the applicable regulations. The Permitting Plan shall provide a list of necessary Design-Builder-held permits that are Design-Builder-led, in which the Design-Builder will obtain the permit from the respective permitting agency. The Permitting Plan shall also identify THE OWNER-held permits and designate if these permit applications are owner-led or Design-Builder-led. Permits that are influential to critical path elements for the delivery of the design or construction should be identified. The Permitting Plan shall cover activities and permitting schedule(s) for both Stage 1 and Stage 2, including a schedule for permit development, review of each permit, incorporating review comments, agency submittal, preparing responses to agency comments, review of responses, resubmittal to agency, and anticipated Permitting Plan shall identify submittal requirements and address roles and responsibilities internal and external communication strategies and protocol as well as permit tracking procedures.
3. Submit an electronic copy in Adobe PDF and WORD format of draft Permitting Plan to THE OWNER for review.
4. Schedule and facilitate meeting(s) with THE OWNER to present and summarize the draft Permitting Plan to discuss permitting coordination between the Design-Builder and THE OWNER.
5. Update the draft Permitting Plan based on comments received from THE OWNER and submit eight (8) paper copies and an electronic copy in Adobe PDF and WORD format of final Permitting Plan to THE OWNER.
6. Design-Builder shall be responsible for obtaining any temporary easements required for construction. Design-Builder shall coordinate with THE OWNER and appropriate landowners. Design-Builder shall assist THE OWNER in obtaining temporary easements, as needed, including assisting THE OWNER in determining cost for such easements.

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7. Design-Builder shall be responsible for implementing practices and activities, and features into the Construction Documents, to address permitting requirements along with Mitigation Monitoring and Reporting Program requirements associated with CEQA/NEPA.

Task 1.9 – Project Management and Coordination

Design-Builder shall provide project management and coordination through Stage 1, inclusive of the following subtasks.

Task 1.9.1 – Project Administration

Design-Builder shall provide project administration addressing the management and administrative responsibilities associated with project initiation, scheduling review, budget control, subconsultants, invoice preparation, internal team coordination and coordination with THE OWNER.

Task 1.9.2 – Meetings and Workshops

The Design-Builder shall schedule and facilitate monthly project review meetings with THE OWNER. These standing meetings will provide a routine forum for vetting ideas, issues, facilitating discussions, reviewing the monthly invoicing, and confirming the project schedule, project priorities and focus points for the coming weeks, months and quarters.

This task also provides for workshops enabling focused discussions on specific topics. Such workshops are envisioned to include:

- Project review and validation workshop
- Geotechnical data report workshop
- BODR-level workshops
- 30% design-level workshops
- 60% design workshop
- Stage 2 scope, schedule and cost estimate review workshop

Task 1.9.3 – Quality Management

Design-Builder shall implement a quality management process to ensure that the project objectives are realized. At a minimum, the Design-Builder shall perform the following:

1. Designate a Quality Assurance/Quality Control (QA/QC) officer to the Preliminary Services period of the work that is responsible for implementation of the QA/QC plan, and documentation of QA/QC activities.

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2. Provide checklists and quality management guidance documents for performance of the work and documented in a quality management plan (QMP).
3. Require all Project personnel be familiar with the quality management plan, quality control procedures and requirements.
4. Perform internal review of all calculations and deliverables by designated quality management personnel prior to each submission.
5. Record and submit all internal review and comment information. Forms shall be submitted with the procedures documented within the QMP.
6. Review and discuss review comments provided by THE OWNER.

Task 1.9.4 –Risk Management

The Design-Builder shall incorporate risk management into the project. Design-Builder shall prepare and provide updates to a Risk Register including the following information:

1. Risk identification
2. Activity or activities affected (tied to schedule activities)
3. Risk description including qualitative categorization of risk
4. Estimated/calculated percent likelihood that risk may occur
5. Potential schedule impact should risk occur
6. Potential cost impact should risk occur
7. Potential health & safety impacts should risk occur
8. Risk trigger
9. Risk owner
10. Risk management strategy (transfer, mitigate, accept, exploit)

The Design Builder shall update the Risk Register for submittal to THE OWNER monthly, or when significant changes to the project risk profile or risk mitigation strategies occur.

Task 1.9.5 – Health and Safety

The Design-Builder shall provide and administer a health and safety plan for its staff and subcontractors/subconsultants for the duration of Stages 1 and 2. The Design Builder shall be responsible for all construction site safety.

Task 1.9.6 – Change Management

Design-Builder shall manage potential scope and schedule changes associated with completion of the Project. Major potential issues that arise shall be described, tracked and resolved in a timely manner. Status updates of each item for THE OWNER review and input shall be provided during weekly and monthly progress meetings.

Task 1.9.7 – Monthly Program Status Reports (PSRs)

The Design-Builder shall submit monthly PSRs summarizing the Program schedule, costs/budget, risk profile, change register, major decision items, accomplishments and any corrective actions required as part of Stage 1 services.

Following completion of Stage 1 and successful negotiation of the Stage 2 Amendment, final design and construction services will commence. The outline of Stage 2 services includes the following:

Task 2 – Stage 2 Services

Task 2.1 – Final Design Development (100%)

Task 2.2 – Conformed Design Documents

Task 2.3 – Professional Services during Construction

Task 2.3.1 – Submittal Reviews

Task 2.3.2 – RFI Reviews

Task 2.3.3 – Work Change Directives

Task 2.3.4 – Site Observation Visits

Task 2.3.5 – Manuals

Task 2.3.6 – Testing, Startup and Closeout

Task 2.3.7 – Record Drawings

Task 2.4 – Permitting

Task 2.4.1 – Noise Control Plan

Task 2.4.2 – Storm Water Pollution Prevention Plan

Task 2.4.3 - Bair Island Biological Mitigation Plan

Task 2.4.4 – Mitigation Monitoring and Reporting Program

Task 2.4.5 – Settlement Mitigation Plan

Task 2.5 – Construction Services

Task 2.5.1 – Construction

Task 2.5.2 – Quality Control

Task 2.5.3 – Commissioning, Startup, and Performance Testing

Task 2.5.4 – Operations Training

Task 2.5.5 – Completion and Warranties

Task 2.6 – Project Management and Coordination

Task 2.6.1 – Project Management Plan Update

Task 2.6.2 – Schedule Management

Task 2.6.3 – Quality Management Update

Task 2.6.4 – Value Engineering and Risk Management

Task 2.6.5 – Health and Safety

Task 2.6.6 – Change Management

Task 2.6.7 – Community Outreach Support

Task 2.6.8 – Monthly Invoicing and Reporting

Task 2.6.9 – Coordination Meetings and Review Workshops

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Project Financial Forms and Instructions

Envelope 1: Gravity Pipeline Project Stage 1 and Mark-up Percentage Cost Proposal

- Lump Sum proposal for all Stage 1 costs \$ _____
- Home Office & Profit Mark-ups _____ %

Attach a list of hourly billable labor rates for all personnel.

Attach a list of all Contractor-owned equipment rates.

See INDICATIVE COST ESTIMATE INSTRUCTIONS GRAVITY PIPELINE PROJECT for definition of Home Office & Profit Mark-ups. What is provided in this Envelope 1 shall be consistent with the similar items in Envelope 2.

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Envelope 2: Gravity Pipeline Project Indicative Cost Estimate (Stage 2)

- Basis for Gravity Pipeline Indicative Cost Estimate
- Estimating Instructions

Basis for Gravity Pipeline Project Indicative Cost Estimate

The Indicative Cost Estimate is to be prepared based on essentially the Gravity Pipeline Project as described in the Conveyance System EIR. For clarity the main parts of the project are outlined below.

This project description is NOT the project description that SVCW intends to build. SVCW intends to work collaboratively with the selected Design-Builder to develop and complete a project that better meets SVCW success factors and objectives.

However, the project description outlined below is to be used as the basis of the Indicative Cost Estimate that is a required part of the Proposal submittal. The Indicative Cost Estimate will be submitted to SVCW in a separate sealed envelope that will not be opened until all other scoring for all Proposals has been completed. The Indicative Costs Estimate will not be scored based on the dollar amount in the estimate but will be scored based on project understanding demonstrated, clarity of cost estimate format, reasonableness of cost estimate, consistency with balance of proposal/meetings/interviews. The Indicative Costs Estimate score will be approximately 5% of the overall proposal score.

The Indicative Cost Estimate will be provided by Proposers in accordance with instructions included with this RFP and shall use the same markups as provided by the proposer for in the envelop that is to include the proposed home office and profit markups (percentages) for Stage 2 services.

Gravity Pipeline Project Description Outline for Indicative Costs Estimate Purposes

Tunnel

15' outside diameter tunnel, 13' inside diameter

11' inside diameter Fiberglass Reinforced Pipe carrier pipe

17,600 feet long tunnel built using an Earth Pressure Balance TBM

Tunnel slope a consistent 0.0015 feet per foot

Bair Island end with ~20 feet of cover

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Four shafts:

Airport Access Shaft

35' inside diameter

Launch shaft for tunneling in both directions

Completed as an access way structure

RLS shaft

Figure 8 shaft structure with common wall

Smaller part 32' ID and 61' deep

Larger part 52' ID and 76' deep

Bair Island Inlet Structure

27 foot deep shaft

28 foot diameter

Finish off with ogee ramp inlet pipe to combination access way and junction structure

Air inlet (most of the time with no restriction) and air outlet controls (only when tunnel filled with water past San Carlos shaft).

San Carlos Drop Structure

Height constraints for shaft construction (~25')

15' inside diameter shaft 46' deep

Hand mining between shaft and tunnel (30ft)

IPEX Vortex drop structure inside shaft

Isolation of air flow so tunnel air does not back up into collection system

Overflow for higher flows than can be handled in IPEX unit

Access way to tunnel through drop shaft

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San Carlos Connections

Separate flow measuring and sampling vaults for San Carlos and Belmont flows

Site piping and connections for San Carlos flow

Site piping for Belmont flow

Air duct to building for permanent odor control inside the building

Temporary odor control outside the building

INDICATIVE COST ESTIMATE INSTRUCTIONS

GRAVITY PIPELINE PROJECT

Revision Date 6/6/17

A. GENERAL INSTRUCTIONS

1. Resource Cost Components

a. Gravity Pipeline Project Indicative Cost Estimate

- i. The Proposer's Indicative Cost Estimate shall be based on the scope, quality and schedule as defined generally in the EIR and more specifically in the Request for Proposal (RFP) and its attachments.
- ii. The Proposer's Indicative Cost Estimate shall include sufficient detail to allow the Authority to determine the Proposer's understanding of the scope of the work involved and the basis for each line item in the Proposer's Indicative Cost Estimate. The Proposer's Indicative Cost Estimate should provide more line item detail than is included in the March 2016 conceptual cost estimate for the Gravity Pipeline (included in Planning Report Documents).
- iii. The Proposer's Indicative Cost Estimate will be a starting point for cost estimating revisions during Stage 1. As elements of the project are changed, the cost estimate will be adjusted accordingly. Ultimately revisions to the Proposer's Indicative Cost Estimate will lead to a GMP or lump sum for Stage 2.
- iv. The Gravity Pipeline Project Indicative Cost Estimate should be a stand-alone "all-encompassing" submittal.
 1. By "submittal" it is meant that the cost estimating information to be provided will be a separate element of the Gravity Pipeline Project Proposal (Envelope 2).
 2. The cost estimate submittal shall be submitted in printed format as well as electronically on a USB thumb drive in Microsoft Excel and Adobe PDF format.
 3. If the Proposer's cost estimating system uses a computer program other than one utilizing an Excel format the Proposer shall make available for the Authority's interim and temporary use the Proposer's cost estimating program.
 - a. At the Authority's request, the Proposer shall make available personnel assistance in order for the Authority to utilize the program for its analysis purposes.

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Project Financial Forms and Instructions

- v. The Gravity Pipeline Project Estimate must include all elements of the conveyance delivery system including the tunnel from the launch shaft to the Wastewater Treatment Plant (WWTP), tunnel from the launch shaft to Bair Island, FRP pipe complete in the tunnel, the Airport Access Shaft (launch shaft), the Bair Island Inlet Shaft (connection to the existing in-place Force Main at Bair Island with Menlo Park and Redwood City flows), the San Carlos Drop Structure with connections to Belmont and San Carlos flows and the Receiving Lift Station Shaft at the WWTP Front of Plant (FoP).
 - vi. These elements shall be easily identifiable and segregated in the cost estimate submittal. It will be necessary for the labor rate information to be provided for all trades including major subcontractors identified in the Proposal.
 - vii. The cost estimate shall be based on costs data and prices as of July 1, 2017.
- b. Labor Rates
- i. All submittals must include detailed labor rate information using the Microsoft Excel spreadsheet format provided in the RFP, titled Labor Rate Analysis. All labor rate details must be submitted in Microsoft Excel and Adobe PDF format.
 - 1. Additional instructions for completing the Labor Rate Analysis spreadsheet are included in Attachment A to these instructions.
 - ii. All labor rates shall be those in effect as of July 1, 2017 and in compliance with the latest California Department of Industrial Relations (DIR) Prevailing Wages and Labor Union Agreements, as appropriate if applicable.
 - iii. The Owner-Controlled Insurance Program (OCIP) will not provide Workers' Compensation (WC) Insurance; the labor rates used in the estimates by the Proposers are to include WC insurance.
 - iv. The Owner-Controlled Insurance Program (OCIP) will provide Comprehensive General Liability (CGL) Insurance; the labor rates used in the cost estimates by the Proposers are not to include CGL insurance.
 - 1. CGL Insurance will provide for Personal Liability and Property Damage (PL/PD) coverage for the Proposer.
 - 2. CGL Insurance will provide for Property Installation Floater coverage for the Proposer.
 - v. Additional coverage under the OCIP includes Employers' Liability, Excess Liability, Builder's Risk and Contractor's Pollution Legal Liability. The

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Proposer shall not include costs for these coverages in the Proposer's Cost Estimate. Premiums will be paid directly by the Authority.

- vi. The Director of Industrial Relations website is listed below for reference:
<http://www.dir.ca.gov/>

- c. Equipment Rates

- i. Rates are to be established by each Proposer.
- ii. All equipment rates should reflect full operating and ownership/rental costs per hour.
 - 1. Equipment operators are considered a Direct Labor Resource Cost Component.
- iii. Costs for specialized equipment purchased and/or rebuilt for the project, including purchase and/or rebuild prices, freight and related salvage shall be shown in the cost estimate provided by the Proposer. This is expected to include at a minimum:
 - 1. Tunnel Boring Machine (TBM)
 - 2. Muck conveyor system
 - 3. Other specialized equipment

- d. Material Costs

- i. All materials should be priced as FOB jobsite.
- ii. Sales tax shall be included the estimate. The Proposer has the option to include sales tax in each material price or as a separate identifiable add-on in the cost estimate for materials; the latter is preferred.
 - 1. The correct sales tax rate for Redwood City currently is 8.75%

- e. Subcontract Costs

- i. Cost estimates for major subcontractors shall follow the format described in these instructions as requested of the Proposer for self-performed work.
- ii. Minor subcontracted work may use "plug prices"; however, these plug prices should reflect representative prices available in the marketplace.

2. Direct Cost Estimate (Category 1)

- a. Direct Cost items and operations should be evaluated using the above Resource Cost Components preferably (but not mandatory) in the following sequence:
 - i. Labor
 - ii. Equipment
 - iii. Materials
 - iv. Subcontracts
- b. The Proposer's cost estimate shall summarize the direct costs into these components so that totals for each are readily identifiable.

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- i. Manhours for the direct labor cost component shall be identifiable as a summary total, at a minimum, and for each item and operation as well, if possible.
 - ii. Excavation production rates, as appropriate, shall be indicated as part of the estimate detail including excavation rates for various sections of the tunnel, tunnel equipment removal and cleanup, pipe installation, testing, grouting and final cleanup.
 - c. Direct Cost items and operations should be complete and kept separate from Field Indirect (Field Overhead) Costs and any Margin (Home Office Overhead and Profit).
 - d. Tools and supplies (T&S) can be included as a direct cost (either as a % of direct labor cost or a \$/manhour value) or as part of the Field Indirect (Field Overhead) Cost Category.
 - i. Safety supplies and personal protection items, if estimated separately, can be treated similar to T&S.
 - e. Mobilization costs can be included as part of the Direct Cost Resource category or a separate “stand-alone” line item entry in the Cost Estimate under the Field Indirect (Field Overhead) Cost category.
- 3. Field Indirect (Field Overhead) Cost Estimate (Category 2)
 - a. This category can be estimated on either of the following two bases:
 - i. It is preferred that this cost category be estimated using the same resource cost components utilized for the direct cost estimate.
 - 1. Non-time related field indirect costs should be estimated in this category segregated from time-related costs.
 - 2. Time related field indirect costs should be estimated in this category segregated from time-related costs.
 - a. Time-related costs take into account construction duration and the associated resources required (i.e. management, supervision, equipment, supplies, etc.).
 - b. The durations of each of the labor and equipment resources are required should be identifiable.
 - 3. The Field Indirect (Field Overhead) Cost Estimate shall be summarized similar to the summary required for the Direct Cost Estimate.
 - ii. A flat percentage of total Direct Costs based on historical experience.
 - 1. The basis for the Proposer’s selected percentage and historical experience cost data shall be explained sufficiently to the satisfaction of the Authority.

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- b. A bar chart-type schedule indicating approximate durations of major activities and the proposed sequence of work shall be provided as part of the cost estimate submittal.
- 4. Stage 2 Design Cost Estimate (Category 3)
 - a. This category is to include the Proposer's estimate of its costs to complete the design work after Stage 1 design activities. The product of Stage 1 design is intended to approximate the 60% design status.
 - b. The Proposer shall provide a cost breakdown with sufficient detail for review, including estimated workhours, comprehensive billing rates for all staff engaged in the Stage 2 design activities, an itemization of all expenses to be incurred and any other special services required.
 - c. The Proposer shall provide detailed information similar to 4.b. above for any subconsultants to be engaged in the design activities.
- 5. Six-Month Extended Performance Period and Operator Training (Category 4)
 - a. This category is to include the Proposer's estimate of its costs to provide an extended period of cooperating with the Authority's personnel to confirm the performance of the system and facilities and to provide additional training for the Authority's staff.
 - b. The Proposer shall provide a cost breakdown with sufficient detail for review, including estimated workhours, comprehensive billing rates for all staff engaged in the extended performance and training activities, an itemization of all expenses to be incurred and any other special services required.
 - c. The Proposer shall provide detailed information similar to 5.b. above for any subconsultants to be engaged in the extended performance and training activities.
- 6. Margin (Home Office Overhead and Profit) (Category 5)
 - a. Margin (Home Office Overhead and Profit)
 - i. The individual percentages for Home Office Overhead and Profit should be added to create a single Margin percentage. The Margin percentage is to be multiplied against the combined total of Direct Cost (Category 1), Field Indirect Cost (Category 2), Stage 2 Design Cost (Category 3), and Six-Month Extended Performance Period and Operator Training (Category 4) to determine the Margin (Category 5) amount.
 - 1. The Home Office Overhead percentage should be separately identified.
 - 2. The Profit percentage should be separately identified.
 - a. This percentage should reflect the construction risk evaluated by the Proposer.

Attachment F

Project Financial Forms and Instructions

- ii. The Margin is to be added to the combined total of Categories 1, 2, 3 and 4 above.
- 7. Performance and Payment Bonds (Category 6)
 - a. Add expected Performance and Payment Bond cost rates to the Subtotal of the Categories 1, 2, 3, 4 and 5 Costs.
 - b. The Proposer is requested to present as part of its Proposal submittal information on its expected Performance and Payment Bond cost rate schedule.
- 8. Proposer's Total Construction Cost Estimate
 - a. The Grand Sum Total of Categories 1, 2, 3, 4, 5 and 6 Costs.
- 9. Contingency
 - a. *Include an explanation of the basis for a suggested contingency. DO NOT INCLUDE the suggested contingency in the Total Construction Cost Estimate.*
- 10. Escalation
 - a. *Include an explanation of the basis for escalation. DO NOT INCLUDE the escalation in the Total Construction Cost Estimate.*
 - i. *The Total Construction Cost Estimate shall be based on costs as of July 1, 2017.*
- 11. Proposer's Financing Costs
 - a. *Include an explanation of the basis for financing costs. DO NOT INCLUDE financing costs in the Total Construction Cost Estimate.*

B. ATTACHMENTS to be included in the estimate submittal

- 1. Labor Rate Analysis Excel Spreadsheet and Instructions
- 2. Bar Chart Construction Schedule

Attachment F

Project Financial Forms and Instructions

LABOR RATE ANALYSIS

Contractor:		DESCRIPTION			
Locality:		Rate Expires:			
Determination:					
Classification:					
Level:					
		RATES			
	%	Regular Time	OT (1.5X)	DT (2X)	
TAXABLE RATES					
Base Rate		\$	-	\$	-
Vacation					
Subtotal Taxable		\$	-	\$	-
FRINGE BENEFITS					
Health & Welfare					
Pension					
Training					
Other Payments					
Subtotal Fringes		\$	-	\$	-
INSURANCES					
Liability (PL/PD)	0.00%	0% for all OCIP projects			
Workers Comp		\$	-	\$	-
Subtotal Insurances		\$	-	\$	-
PAYROLL TAXES					
FICA	6.20%	\$	-	\$	-
Medicare	1.45%	\$	-	\$	-
FUI		\$	-	\$	-
SUI		\$	-	\$	-
Subtotal Taxes		\$	-	\$	-
TOTAL HOURLY		\$	-	\$	-

Notes:

Contractor:		DESCRIPTION			
Locality:		Rate Expires:			
Determination:					
Classification:					
Level:					
		RATES			
	%	Regular Time	OT (1.5X)	DT (2X)	
TAXABLE RATES					
Base Rate		\$	-	\$	-
Vacation					
Subtotal Taxable		\$	-	\$	-
FRINGE BENEFITS					
Health & Welfare					
Pension					
Training					
Other Payments					
Subtotal Fringes		\$	-	\$	-
INSURANCES					
Liability (PL/PD)	0.00%	0% for all OCIP projects			
Workers Comp		\$	-	\$	-
Subtotal Insurances		\$	-	\$	-
PAYROLL TAXES					
FICA	6.20%	\$	-	\$	-
Medicare	1.45%	\$	-	\$	-
FUI		\$	-	\$	-
SUI		\$	-	\$	-
Subtotal Taxes		\$	-	\$	-
TOTAL HOURLY		\$	-	\$	-

Notes:

Contractor:		DESCRIPTION			
Locality:		Rate Expires:			
Determination:					
Classification:					
Level:					
		RATES			
	%	Regular Time	OT (1.5X)	DT (2X)	
TAXABLE RATES					
Base Rate		\$	-	\$	-
Vacation					
Subtotal Taxable		\$	-	\$	-
FRINGE BENEFITS					
Health & Welfare					
Pension					
Training					
Other Payments					
Subtotal Fringes		\$	-	\$	-
INSURANCES					
Liability (PL/PD)	0.00%	0% for all OCIP projects			
Workers Comp		\$	-	\$	-
Subtotal Insurances		\$	-	\$	-
PAYROLL TAXES					
FICA	6.20%	\$	-	\$	-
Medicare	1.45%	\$	-	\$	-
FUI		\$	-	\$	-
SUI		\$	-	\$	-
Subtotal Taxes		\$	-	\$	-
TOTAL HOURLY		\$	-	\$	-

Notes:

Contractor:		DESCRIPTION			
Locality:		Rate Expires:			
Determination:					
Classification:					
Level:					
		RATES			
	%	Regular Time	OT (1.5X)	DT (2X)	
TAXABLE RATES					
Base Rate		\$	-	\$	-
Vacation					
Subtotal Taxable		\$	-	\$	-
FRINGE BENEFITS					
Health & Welfare					
Pension					
Training					
Other Payments					
Subtotal Fringes		\$	-	\$	-
INSURANCES					
Liability (PL/PD)	0.00%	0% for all OCIP projects			
Workers Comp		\$	-	\$	-
Subtotal Insurances		\$	-	\$	-
PAYROLL TAXES					
FICA	6.20%	\$	-	\$	-
Medicare	1.45%	\$	-	\$	-
FUI		\$	-	\$	-
SUI		\$	-	\$	-
Subtotal Taxes		\$	-	\$	-
TOTAL HOURLY		\$	-	\$	-

Contractor:		DESCRIPTION			
Locality:		Rate Expires:			
Determination:					
Classification:					
Level:					
		RATES			
	%	Regular Time	OT (1.5X)	DT (2X)	
TAXABLE RATES					
Base Rate		\$	-	\$	-
Vacation					
Subtotal Taxable		\$	-	\$	-
FRINGE BENEFITS					
Health & Welfare					
Pension					
Training					
Other Payments					
Subtotal Fringes		\$	-	\$	-
INSURANCES					
Liability (PL/PD)	0.00%	0% for all OCIP projects			
Workers Comp		\$	-	\$	-
Subtotal Insurances		\$	-	\$	-
PAYROLL TAXES					
FICA	6.20%	\$	-	\$	-
Medicare	1.45%	\$	-	\$	-
FUI		\$	-	\$	-
SUI		\$	-	\$	-
Subtotal Taxes		\$	-	\$	-
TOTAL HOURLY		\$	-	\$	-

Contractor:		DESCRIPTION			
Locality:		Rate Expires:			
Determination:					
Classification:					
Level:					
		RATES			
	%	Regular Time	OT (1.5X)	DT (2X)	
TAXABLE RATES					
Base Rate		\$	-	\$	-
Vacation					
Subtotal Taxable		\$	-	\$	-
FRINGE BENEFITS					
Health & Welfare					
Pension					
Training					
Other Payments					
Subtotal Fringes		\$	-	\$	-
INSURANCES					
Liability (PL/PD)	0.00%	0% for all OCIP projects			
Workers Comp		\$	-	\$	-
Subtotal Insurances		\$	-	\$	-
PAYROLL TAXES					
FICA	6.20%	\$	-	\$	-
Medicare	1.45%	\$	-	\$	-
FUI		\$	-	\$	-
SUI		\$	-	\$	-
Subtotal Taxes		\$	-	\$	-
TOTAL HOURLY		\$	-	\$	-

Attachment F

Project Financial Forms and Instructions

SVCW CIP ESTIMATE INSTRUCTIONS

LABOR RATE ANALYSIS

DRAFT Revision Date 04/11/17

All Proposers will be provided with a template in Microsoft Excel format for entry of labor rate information.

Labor rate details should be provided by all Proposers for all trades that will be performing work directly for the Proposer and for all subcontractors performing significant portions of the work.

All labor rates shall comply with the requirements defined in the SVCW CIP Estimate Instructions.

Blank Labor Rate Analysis Template:

Contractor:					
DESCRIPTION					
Locality:		Rate Expires:			
Determination:					
Classification:					
Level:					
RATES					
	%	Regular Time	OT (1.5X)	OT (2X)	
TAXABLE RATES					
Base Rate		\$	-	\$	-
Vacation					
Subtotal Taxable	\$	-	\$	-	\$
FRINGE BENEFITS					
Health & Welfare					
Pension					
Training					
Other Payments					
Subtotal Fringes	\$	-	\$	-	\$
INSURANCES					
Liability (PL/PPD)	0.00%	0% for all OCIP projects			
Workers Comp		\$	-	\$	-
Subtotal Insurances	\$	-	\$	-	\$
PAYROLL TAXES					
FICA	6.20%	\$	-	\$	-
Medicare	1.45%	\$	-	\$	-
FUI		\$	-	\$	-
SUI		\$	-	\$	-
Subtotal Taxes	\$	-	\$	-	\$
TOTAL HOURLY	\$	-	\$	-	\$

Notes:

Enter labor rate determination information and expiration date for each labor rate in this section.

Enter details of each labor rate breakdown in this section.