Northcoast Regional Land Trust

**Wood Creek Aquatic Habitat Enhancement Project - Phase II Construction 2017**

Construction Documents

Issue for Bid
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ADVERTISEMENT FOR BIDS

WOOD CREEK AQUATIC HABITAT ENHANCEMENT PROJECT

PHASE II CONSTRUCTION 2017

The Northcoast Regional Land Trust invites Bids for the WOOD CREEK AQUATIC HABITAT ENHANCEMENT PROJECT, PHASE II CONSTRUCTION 2017.

A conditional or qualified bid will not be accepted if it modifies the Plans or Specifications or method of work. A mandatory pre-bid site inspection conference is scheduled for 9:00 AM, Pacific Daylight Time on August 9, 2017 at the Northcoast Regional Land Trust’s Freshwater Farms Reserve, 5851 Myrtle Avenue, Freshwater, CA. The pre-bid site inspection conference will visually examine site conditions where construction activities are proposed. Attendees should plan for a two-hour site visit and may include wet site conditions. Waterproof boots are advised.

The work shall include the furnishing of all labor, equipment, and supervision for construction to complete Phase II of the Wood Creek Aquatic Habitat Enhancement Project. The majority of the project was completed in August 2016. The remaining work to be completed and described under this bid generally includes disk and preparing designated areas of pasture (marsh plain); transporting excavated soil and composted vegetation from an on-site stockpile to designated areas on the pasture (marsh plain), spreading, disk and grading excavated soil and composted vegetation; placing seed and mulch on spread soil and areas of disturbance; harvesting willows from on-site location and installing them as wood habitat structures in the slough channels; and establishing and maintaining environmental protection BMP’s.

This is a federally-assisted project and Davis-Bacon (DBRA) requirements will be strictly enforced. Federal Labor Standards will apply. Contractors, including all subcontractors and apprentices, must be eligible to participate.

Bids will be received at the office of Northcoast Regional Land Trust, 901 Samoa Blvd., Arcata, CA 95521 until 3:00 PM, Pacific Daylight Time on August 18, 2017. It is the Bidders responsibility to ensure that Bids are received by the Northcoast Regional Land Trust prior to 3:00 PM, Pacific Daylight Time on August 18, 2017.

The mailing address for the Northcoast Regional Land Trust is P.O. Box 398, Bayside, CA 95524. No mail is delivered to the Northcoast Regional Land Trust’s physical address. Bids sent by U.S. Postal Service mail should be sent to P.O. Box 398, Bayside, CA 95524. Bids postmarked prior to, but not received by the Northcoast Regional Land Trust prior to 3:00 PM, Pacific Daylight Time on August 18, 2017 will not be accepted and returned to the Bidder unopened.


Copies of the contract documents may also be obtained at the office of Northcoast Regional Land Trust, 901 Samoa Blvd., Arcata, CA 95521.
Each proposal must be submitted on the prescribed form and accompanied by a certified check or Bid Bond in an amount of not less than 10 percent of the amount bid. Successful bidders will be required to furnish both a Payment Bond and Performance Bond in the full amount of the Contract Price.

In accordance with Public Contract Code Section 10263 and with concurrence of the project funding agencies, the Contractor may be allowed to substitute securities for monies normally withheld by the Contract Manager to insure performance under this contract.

This Project is funded with CA State and Federal Funds. Therefore CA State and Federal prevailing wage rates will be required on this project.

In accordance with the provisions of section 1720 et seq. of the Labor Code, the Division of Labor Standards and Research has determined the general prevailing rates or wages and employer payments for health and welfare, pension, vacation, travel time, and subsistence pay as provided for in section 1773.8. These wages are set forth in the General Prevailing Wage Rates for this project, and are available from the California Department of Industrial Relations’ Internet web site at http://www.dir.ca.gov/DLSR/PWD.

It shall be mandatory upon the Contractor herein and upon any Subcontractor to pay not less than the said specified rates to all laborers, workers and mechanics employed by them in the execution of the Agreement pursuant to CA Labor Code 1774.

Attention is directed to the provisions in section 1777.5 and sections 1777.6 of the Labor Code concerning the requirement to employ apprentices by the Contractor or any Subcontractor under it.

The Contractor shall comply with and shall cause his Subcontractors to comply with all laws and regulations governing the Contractor’s and Subcontractor’s performance on this project including, but not limited to: anti-discrimination laws, workers’ compensation laws, and prevailing wage laws as set forth in CA Labor Code, Sections 1720-1861 et seq. and licensing laws, as well as Federal Labor Standards set forth in the Davis-Bacon Act (40 USC 276(a-a5), the Copeland “Anti-Kickback” Act (40 USC 276©; and the Contract Work Hours and Safety Standards Act (CWHSSA) (40 USC 327-333). The Contractor is required to include the prevailing wage language in all subcontracts pursuant to CA Labor Code 1775(E)(b)(1). The Contractor shall post, at appropriate conspicuous points on the site of the Project, a schedule showing all the determined general prevailing wage rates.

The Contractor agrees to comply with Labor Code Section 1775 (Payment of the Prevailing Wage Rates) and Labor Code 1776 (keeping accurate records) and Labor Code 1777.5, placing responsibility for compliance with the statutory requirements for all apprenticeable occupations on the prime Contractor.

The Contractor shall comply with the requirements imposed by the California Labor Code Sections 1720 through 1861 regarding public works projects and prevailing wage laws and sections 16000-16800 of the CA Code of Regulations.

Each worker needed to execute the work must be paid travel and subsistence payments as defined in the applicable collective bargaining agreements filed in accordance with Labor Code Section 1773.8.

Holiday and overtime work when permitted by law shall be paid for at a rate of at least one and one-half times the above specified rate of per diem wages, unless otherwise specified.
Contractor and any Subcontractors shall be assessed penalties for violating the following labor codes; CA Labor Code 1813 for overtime, 1775 for underpayment of the prevailing wage, and 1776 for inaccurate or incomplete payroll records.

The Contractor shall be responsible for submitting certified payroll records in accordance with Labor Code 1776 and submit copies to Contract Manager’s Labor Compliance Officer.

No Contractor or Subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].

No Contractor or Subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

By: Dan Ehresman, Executive Director Dated: July 31, 2017
PART 1 BIDDING REQUIREMENTS
INFORMATION FOR BIDDERS

Bids will be received by the Northcoast Regional Land Trust (herein called the "Contract Manager"), at the Contract Manager’s office at the Northcoast Regional Land Trust, 901 Samoa Blvd., Arcata, CA 95521, until the time listed in the Advertisement for Bids; and then at said office publicly opened and read aloud.

Each bid must be submitted in a sealed envelope, addressed to Northcoast Regional Land Trust. Each sealed envelope containing a bid must be plainly marked on the outside as BID FOR WOOD CREEK AQUATIC ENHANCEMENT PROJECT – PHASE II CONSTRUCTION 2017, and the envelope should bear on the outside the name of the bidder, his address, his license number if applicable, and the name of the Schedule for which the bid is submitted.

If sent by mail or package service, the sealed envelope containing the bid must be enclosed in another envelope addressed to Northcoast Regional Land Trust.

Bids received after the time specified opening will not be considered. The bidder is solely responsible for timely delivery of his bid.

A mandatory pre-bid site inspection conference is scheduled for 9:00 AM, Pacific Daylight Time on August 9, 2017 at the Northcoast Regional Land Trust’s Freshwater Farms Reserve, 5851 Myrtle Avenue, Freshwater, CA. The pre-bid inspection conference will visually examine site conditions where construction activities are proposed. Attendees should plan for a two-hour site visit and may include wet site conditions. Waterproof boots are advised.

Note: Pursuant to Public Contract Code section 6610, a mandatory pre-bid site inspection conference, site visit, or meeting may not take place sooner than 5 days after the Notice Inviting Bids is published for the first time.

All bids must be made on the required bid form. All blank spaces for bid prices must be filled in, in ink or typewritten, and the bid form must be fully completed and executed when submitted. Only one copy of the bid form is required.

Awards will be made to the lowest, responsive, responsible and qualified bidder. The low bidder shall be determined based on the TOTAL BID. One of the requirements for being deemed responsive, responsible, and qualified is that the bidder must meet all of the minimum qualification requirements set forth in the Bidder’s Qualification Summary.

The Contract Manager may make such investigations as he deems necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish to Contract Manager all such information and data for this purpose as Contract Manager may request. Contract Manager reserves the right to reject any bid if the evidence submitted by, or investigation of, such bidder fails to satisfy Contract Manager that such bidder is properly qualified to carry out the obligations of the Agreement and to complete the work contemplated therein.

The Contract Manager may waive any informalities or minor defects or reject any and all bids. Any bid may be withdrawn prior to the above scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified shall not be considered.
No bidder may withdraw a bid within 60 days after the actual date of the opening thereof. Should there be reasons why the contract cannot be awarded within the specified period; the time may be extended by mutual agreement between the Contract Manager and the bidder.

Bid Protest. Any bid protest must be in writing and received by the Contract Manager at 901 Samoa Blvd., Arcata, CA 95521 before 4:00 p.m. no later than two (2) working days following bid opening (the “Bid Protest Deadline”) and must comply with the following requirements below.

Only a bidder who has actually submitted a Bid Proposal is eligible to submit a bid protest against another bidder. Subcontractors are not eligible to submit bid protests. A bidder may not rely on the bid protest submitted by another bidder, but must timely pursue its own protest.

The bid protest must contain a complete statement of the basis for the protest and all supporting documentation. Material submitted after the Bid Protest Deadline will not be considered. The protest must refer to the specific portion or portions of the Contract Documents upon which the protest is based. The protest must include the name, address and telephone number of the person representing the protesting bidder if different from the protesting bidder.

A copy of the protest and all supporting documents must also be transmitted by fax or by e-mail, by or before the Bid Protest Deadline, to the protested bidder and any other bidder who has a reasonable prospect of receiving an award depending upon the outcome of the protest.

The protested bidder may submit a written response to the protest, provided the response is received by the Contract Manager at 901 Samoa Blvd., Arcata, CA 95521 before 4:00 p.m., within two (2) working days after the Bid Protest Deadline or after receipt of the bid protest, whichever is sooner (the “Response Deadline”). The response must include all supporting documentation. Material submitted after the Response Deadline will not be considered. The response must include the name, address and telephone number of the person representing the protested bidder if different from the protested bidder.

A copy of the response and all supporting documents must also be transmitted by fax or by e-mail, by or before the Bid Protest Deadline, to the protested bidder and any other bidder who has a reasonable prospect of receiving an award depending upon the outcome of the protest.

The procedure and time limits set forth in this section are mandatory and are the bidder’s sole and exclusive remedy in the event of bid protest. The bidder’s failure to comply with these procedures shall constitute a waiver of any right to further pursue a bid protest, including filing a Government Code Claim or initiation of legal proceedings.

Bidders must satisfy themselves of the accuracy of the estimated quantities in the bid schedule by examination of the site and a review of the Plans and Specifications including addenda. After bids have been submitted, the bidder shall not assert that there was a misunderstanding concerning the quantities of work or of the nature of the work to be done.

Each bid must be accompanied by a bid bond payable to the Contract Manager, for ten percent of the total amount of the bid. As soon as the bid prices have been compared, the Contract Manager will return the bonds of all except the three lowest responsible bidders. When the Agreement is executed, the bonds of the two remaining unsuccessful bidders will be returned. The bid bond of the successful
bidder(s) will be retained until the payment bond and performance bond have been executed and approved, after which it will be returned. A certified check may be used in lieu of a bid bond.

A performance bond and a payment bond, each in the amount of 100 percent of the contract price, with a corporate surety approved by the Contract Manager and in favor of the Contract Manager and the California State Coastal Conservancy (SCC) will be required for the faithful performance of the contract.

Attorneys-in-fact who sign bid bonds or payment bonds and performance bonds must file with each bond a certified and effective dated copy of their power of attorney.

The party to whom the contract is awarded will be required to execute the Agreement and obtain the performance bond and payment bond within fourteen (14) calendar days from the date when Notice of Award is delivered to the bidder. The Notice of Award shall be accompanied by the necessary Agreement and bond forms. In case of failure of the bidder to execute the Agreement, the Contract Manager may at his option consider the bidder in default, in which case the bid bond accompanying the proposal shall become the property of the Contract Manager.

The Contract Manager, within thirty (30) calendar days of receipt of an acceptable performance bond, payment bond and Agreement signed by the party to whom the Agreement was awarded shall sign the Agreement and return to such party an executed duplicate of the Agreement. Should the Contract Manager not execute the Agreement within such period, the bidder may submit a written notice to withdraw his signed Agreement. Such notice of withdrawal shall be effective upon receipt of the notice by the Contract Manager.

The Notice to Proceed shall be issued within thirty (30) days of the execution of the Agreement by the Contract Manager. Should there be reasons why the Notice to Proceed cannot be issued within such period, the time may be extended by mutual agreement between the Contract Manager and Contractor.

In essence, the Contract Manager will strive to expedite all review processes that it is responsible for, as set forth above in an attempt to issue the Notice to Award by August 30, 2017 and a Notice to Proceed by September 18, 2017 or as soon thereafter as reasonable.

If the Notice to Proceed has not been issued within the thirty (30) day period or within the period mutually agreed upon, the Contractor may terminate the Agreement without further liability on the part of either party.

The Contract Manager may make such investigations as deemed necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish to the Contract Manager all such information and data for this purpose as the Contract Manager may request. The Contract Manager reserves the right to reject any bid if the evidence submitted by, or investigation of, such bidder fails to satisfy the Contract Manager that such bidder is properly qualified to carry out the obligations of the Agreement and to complete the work contemplated therein.

A conditional or qualified bid will not be accepted if it modifies the Plans or Specifications or method of work.

All applicable laws, ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the contract throughout. The Bidder is cautioned to familiarize himself/herself with all applicable permits associated with this project.
Pursuant to Section 1773 of the Labor Code, the general prevailing wage rates in the county, or counties, in which the work is to be done have been determined by the Director of the Department of Industrial Relations, State of California. These wages are set forth in the General Prevailing Wage Rates for this project, and are available for review at the California Department of Industrial Relations’ Internet website at http://www.dir.ca.gov/DLSR/PWD.

The U.S. Department of Transportation (DOT) provides a toll-free “hotline” service to report bid rigging activities. Bid rigging activities can be reported Mondays through Fridays, between 8:00 a.m. and 5:00 p.m., Eastern Time, Telephone No. 1-800-424-9071. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the “hotline” to report these activities. The “hotline” is part of the DOT’s continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the DOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.

The Contract Documents under which it is proposed to execute the work consist of the Plans, Specifications, and all material bound herewith. These Contract Documents are intended to be mutually cooperative and to provide all details reasonably required for the execution of the proposed work. Any person contemplating the submission of a proposal shall have thoroughly examined all of the various parts of these Documents, and should there be any doubt as to the meaning or intent of said Contract Documents, the Bidder should request of the Contract Manager, in writing at least seven business days prior to the August 18, 2017 bid opening, an interpretation thereof. Any interpretation or change in said Contract Documents will be made only in writing, in the form of addenda to the Documents and will be furnished to all Bidders that attended the mandatory pre-bid site inspection conference, who shall submit, or indicate receipt of all addenda with their proposals. The Contract Manager will not be responsible for any other explanation or interpretations of said Documents.

The Contract Documents are assembled, arranged, and titled generally in conformance with format suggested by the Construction Specifications Institute (CSI). Minor variations to the CSI format may be used herein to suit Contract Manager’s requirements or to better adapt the Documents to particular types of projects.

Portions of these Contract Documents may contain standard preprinted material. The Bidder's attention is called to the Conditions of the contract which may modify and add to the preprinted material contained herein.

Sentences in the Contract Documents, which are phrased in mandatory language, but which include no explicit reference to the party who has responsibility for performing the mandated duty, shall be interpreted as imposing responsibility for performance of the duty described on the Contractor. For example, a directive that “the site shall be kept clean” would impose the duty of keeping the site clean on the Contractor.

Where the Proposal for the work is to be submitted on a unit price basis, unit prices will be accepted on all items of work set forth in the Proposal, except those designated to be paid for as a lump sum. The estimate of quantities of work to be done is tabulated in the Proposal and, although stated with as much accuracy as possible, is approximate only and is assumed solely for the basis of calculation upon which the award of Contract shall be made. Payment to the Contractor will be made on the measurement of the work actually performed by the Contractor as specified on the Contract Documents. The Contract
Manager reserves the right to increase or diminish the amount of any class of work as may be deemed necessary.

When the Proposal for the work is to be submitted on a lump sum basis, a single lump sum price shall be submitted in the appropriate place. The total amount to be paid the Contractor shall be the amount of the lump sum in the Proposal, as adjusted for additions or deletions resulting from changes in construction.

All blank spaces in the Proposal form must be filled in, in ink, in both words and figures where required. No changes shall be made in the phraseology of the forms. Written amounts shall govern in cases of discrepancy between the amounts stated in writing and the amounts stated in figures. In case of discrepancy between unit prices and totals, unit prices will prevail.

Any Proposal shall be deemed informal which contains omissions, erasures, alterations, or additions of any kind, or prices uncalled for, or in which any of the prices are obviously unbalanced, or which in any manner shall fail to conform to the conditions of the published Advertisement for Bid.

The Bidder shall sign his Proposal in the blank space provided therefor. If Bidder is a corporation, the legal name of the corporation shall be set forth above, together with the signature of the officer or officers authorized to sign contracts on behalf of the corporation. If Bidder is a co-partnership, the true name of the firm shall be set forth above, together with the signature of the partner or partners authorized to sign contracts in behalf of the co-partnership. If signature is by an agent, other than an officer of a corporation or a member of a partnership, a Power of Attorney must be on file with the Contract Manager prior to opening of Proposals or submitted with the Proposal, otherwise the Proposal will be regarded as not properly authorized.

State and local sales and use taxes, as required by the laws and statutes of the State and its political subdivisions, shall be paid by the Contractor. Prices quoted in the Proposal shall include sales tax unless provision is made in the Proposal form to separately itemize the tax.

Any Bidder may modify his bid by electronic or written communication at any time prior to the scheduled closing time for receipt of bids, provided such communication is received by the Contract Manager prior to the closing time. The Bidder is responsible for verifying prior to the bid opening that such modification was received by the Contract Manager. The electronic or written communication should not reveal the bid price but should state the addition or subtraction or other modification so that the final prices or terms will not be known by the Contract Manager until the sealed bid is opened.

Each Bidder must inform himself of the conditions relating to the execution of the work, and it is assumed that he will inspect the site, subsurface conditions, weather, variations of soil moisture and workability with rainfall, and make himself thoroughly familiar with all the Contract Documents. Failure to do so will not relieve the successful Bidder of his obligation to enter into a contract and complete the contemplated work in strict accordance with the Contract Documents. The Bidder's attention is called to the General Conditions and Supplementary Conditions of the Contract Documents in regards to the Bidder's obligation to verify for himself and to his complete satisfaction all information concerning site and subsurface conditions, and Notice requirements.

Each Bidder shall inform himself of, and the Bidder awarded a contract shall comply with, State and local laws, statutes, and ordinances relative to the execution of the work. This requirement includes, but is not limited to, applicable regulations concerning employment of labor, protection of public and
employee safety and health, environmental protection, the protection of natural resources, fire protection, burning and non-burning requirements, permits, fees, and similar subjects.

DIR Registration. No Contractor or Subcontractor may be listed on a bid proposal for a public works project or be awarded a contract for public work on a public works project unless they possess an active registration with the Department of Industrial Relations covering the period of time proposed for this project. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

Each bidder shall take all necessary affirmative steps to assure minority firms, women’s business enterprises, and labor surplus area firms are used when possible. If subcontractors are to be let, affirmative action steps shall include the following:

1. Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;

2. Assuring that small and minority businesses and women’s business enterprises are solicited whenever there are potential sources;

3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women’s business enterprises;

4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women’s business enterprises; and

5. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

This project is funded through the following sources:

1. National Coastal Wetlands Conservation Grant (USFWS).

The Contractor shall comply with all requirements associated with these funding programs.
BIDDER'S CHECKLIST

This checklist has been prepared and furnished to aid bidders in including all necessary supporting information with their bid. Bidders' submittals should include, but are not limited to the following:

<table>
<thead>
<tr>
<th>ITEM</th>
<th>PAGE/CHECKED</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Bidder’s Qualification Summary</td>
<td>B-10/11</td>
</tr>
<tr>
<td>2. Bid/Bid Schedule</td>
<td>B-12/13</td>
</tr>
<tr>
<td>3. Authority to Sign Bid Proposal (if applicable)</td>
<td>(Attach to Bid Bond)</td>
</tr>
<tr>
<td>4. Subcontractor Details</td>
<td>B-14</td>
</tr>
<tr>
<td>5. Bid Bond</td>
<td>B-15/16</td>
</tr>
<tr>
<td>6. Equal Employment Opportunity Certification</td>
<td>B-17</td>
</tr>
<tr>
<td>7. Non Collusion Affidavit</td>
<td>B-18</td>
</tr>
<tr>
<td>8. Power of Attorney</td>
<td>(Attach to Bid Bond)</td>
</tr>
</tbody>
</table>
BID

Proposal of ____________________________________________

(hereinafter called "Bidder"), organized and existing under the laws of the State of
___________________________, doing business as _________________________________.

To the Northcoast Regional Land Trust (hereinafter called "Contract Manager").

In compliance with your Advertisement for Bids, Bidder hereby proposes to perform all work for the
construction of the

Wood Creek Aquatic Habitat Enhancement Project Phase II Construction 2017

in strict accordance with the Contract Documents, within the time set forth therein, and at the prices
stated below.

In the event of a difference between a price quoted in words and a price quoted in figures for the same
quotation, the words shall be the amount bid. In the event that the product of a unit price and an
estimated quantity does not equal the extended amount quoted, the unit price shall govern and the
corrected product of the unit price and the estimated quantity shall be deemed to be the amount bid. If
the sum of two or more items in a bidding schedule does not equal the total amounts quoted, the
individual items amounts shall govern and the corrected total shall be deemed to be the amount bid.

By submission of this bid, each bidder certifies, and in the case of a joint bid, each party certifies as to his
own organization, that his bid has been arrived at independently, without consultation, communication,
or agreement as to any matter relating to this bid with any other bidder or with any competitor.

Bidder hereby agrees to commence work under this Contract on or before a date to be specified in the
Notice to Proceed and to fully complete the project and pay the liquidated damages as provided in
Articles III and IV of the General Conditions.

Bidder agrees to perform all the work described in the Contract Documents for the following unit prices
or lump sum.

NOTE: Bids shall include sales tax and all other applicable taxes and fees.
The work included in this contract requires construction within sensitive coastal marsh environments during a limited construction period. Bidders submitting a bid for this project shall demonstrate their qualifications to perform the contract work based on successful completion of similar past projects and the ability to commit appropriate equipment and operators to the work. Bidders will be determined qualified if all criteria below are satisfied to the Contract Manager’s satisfaction. The Contract Manager’s determination of the Bidder’s qualifications may not be challenged. The bidder must complete and submit the qualification criteria table below as part of the bidder’s submittal. If the bidder is including Subcontractors to meet the qualifications, the bidder shall complete the Subcontractors Detail sheet.

Add additional pages to this form as needed to provide full documentation.

<table>
<thead>
<tr>
<th>BIDDER’S QUALIFICATION CRITERIA</th>
<th>YES/NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Performed earthwork operations in saturated soil with high groundwater conditions and hauling and grading on public roads or private lands involving at least 3,000 cubic yards of soil.</td>
<td></td>
</tr>
<tr>
<td>Summary Description:</td>
<td></td>
</tr>
<tr>
<td>2. Performed construction activities in sensitive coastal marsh environments.</td>
<td></td>
</tr>
<tr>
<td>Summary Description:</td>
<td></td>
</tr>
<tr>
<td>3. Bidder is not presently debarred, or suspended, have not been convicted of fraud in last five years; not presently charged by governmental entity; not had any public transactions terminated for cause or default in past 5 years.</td>
<td></td>
</tr>
<tr>
<td>Clarification if required:</td>
<td></td>
</tr>
</tbody>
</table>
4. Provide a minimum of **two** reference projects and no more than **four** reference projects completed within the past five years that combined demonstrate the above criteria were satisfied.

<table>
<thead>
<tr>
<th>Project 1 (Required):</th>
<th>__________________________________________________________________________</th>
</tr>
</thead>
<tbody>
<tr>
<td>Representative/Phone Number:</td>
<td>__________________________________________________________________________</td>
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</table>

<table>
<thead>
<tr>
<th>Project 2 (Required):</th>
<th>__________________________________________________________________________</th>
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<tbody>
<tr>
<td>Representative/Phone Number:</td>
<td>__________________________________________________________________________</td>
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<table>
<thead>
<tr>
<th>Project 3 (Optional):</th>
<th>__________________________________________________________________________</th>
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<tbody>
<tr>
<td>Representative/Phone Number:</td>
<td>__________________________________________________________________________</td>
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<tr>
<th>Project 4 (Optional):</th>
<th>__________________________________________________________________________</th>
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<tbody>
<tr>
<td>Representative/Phone Number:</td>
<td>__________________________________________________________________________</td>
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</table>

5. List the major construction equipment (excavators, loaders, etc.) that shall be used on this contract. List type, model number, and age.

Add additional pages as required.
## BID SCHEDULE

<table>
<thead>
<tr>
<th>Item No.</th>
<th>BASE BID: Item Description</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Price Bid</th>
<th>Total Bid for Line Item</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Project Area Mobilization and Demobilization</td>
<td>1</td>
<td>Lump Sum</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Reinstall and Remove Stabilized Construction Entrance</td>
<td>1</td>
<td>Lump Sum</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Disk and Prepare Pasture</td>
<td>2.5 acres</td>
<td>Lump Sum</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Transport, Place, Disk, and Grade Fill on Pasture</td>
<td>2040 cubic yards</td>
<td>Lump Sum</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Harvest Whole Willow Trees onsite and Install as Wood Habitat Structures in Excavated Off-Channel Slough Network</td>
<td>25 Each</td>
<td>Each</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Seed and Mulch Pasture and Areas of Disturbance</td>
<td>2.5 acres + Areas of Disturbance</td>
<td>Lump Sum</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

TOTAL BID (Add Items 1 -11)

TOTAL BID IN WORDS:

Awards will be made to the lowest, responsive, responsible, and qualified BIDDER that demonstrates their qualifications to perform the contract work based on successful completion of similar past projects and the ability to commit appropriate equipment and operators to the work. The low bidder shall be determined based on the lowest TOTAL BID made by qualified BIDDERS.

Work may be added or deducted as a change order during the project and the bid amounts shown here shall be the agreed upon contract amount for the work or as. The Contractor shall be paid based on actual quantities of work performed.

It is further understood and agreed that the Contract Manager reserves the right to eliminate any section of this proposal from the Contract without claim of the Contractor for profits lost.

Submitted By (Company) _________________________________________________________________

Date________________________________________________________________________

Name (Written) _________________________________________________________________
Signature____________________________________________________________________

Receipt of the following Addenda is acknowledged:

____________________________________________________________________________

____________________________________________________________________________

The representations made herein are made under penalty of perjury.

Respectfully submitted:

______________________________________  ______________________________

Signature      Title

______________________________________  ______________________________

License Number / DIR Number    Date

______________________________________

License Expiration Date

(SEAL - If Bid is by Corporation)
**SUBCONTRACTOR DETAILS**

The bidder certifies that:

A. ___ I do not intend to subcontract any work on this project.

B. ___ I do intend to subcontract any work on this project.

If awarded the Contract, the bidder proposes to employ the following Subcontractors who will perform work or labor or render service to the bidder in or about the work in an amount in excess of one-half of one percent (0.5%) of the total amount of Bidder's proposal. Listing of sub-Contractors is mandatory under Sections 4100-4108 of the California Government Code. If no subcontract work is proposed, except within the one-half of one percent (0.5%) limit set forth, the Bidder shall so state.

<table>
<thead>
<tr>
<th>NAME AND ADDRESS OF SUBCONTRACTOR</th>
<th>DESCRIPTION OF WORK TO BE SUBCONTRACTED</th>
<th>Subcontractor’s CALIF. LIC. NO./DIR NO.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

If Contractor is using Subcontractors to meet Bidder’s Qualifications, provide written explanation here:

__________________________________________________________

__________________________________________________________

__________________________________________________________

__________________________________________________________

__________________________________________________________

__________________________________________________________

__________________________________________________________

__________________________________________________________

__________________________________________________________

__________________________________________________________

__________________________________________________________

__________________________________________________________
BID BOND

KNOW ALL PEOPLE BY THESE PRESENTS, that we, the undersigned,

__________________________________________________________________as Principal, and

__________________________________________________________________, as Surety, are hereby
held and firmly bound unto Northcoast Regional Land Trust as Contract Manager, in the penal sum of
___________________________________________________________________for the payment of
which, well and truly to be made, we hereby jointly and severally bind ourselves, successors and assigns.

Signed this_____________ day of_____________, 2017.

The Condition of the above obligation is such that whereas the Principal has submitted to Northcoast
Regional Land Trust a certain bid, attached hereto and hereby made a part hereof to enter into a
contract in writing, for the:

Wood Creek Aquatic Habitat Enhancement Project Phase II Construction 2017

NOW, THEREFORE,

a. If said bid shall be rejected, or

b. If said bid shall be accepted and the Principal shall execute and deliver a
contract in the Form of Contract attached hereto (properly completed in
accordance with said Bid), and shall furnish a bond for his faithful
performance of said contract, and for the payment of all persons performing
labor or furnishing materials in connection therewith, and shall in all other
respects perform the agreement created by the acceptance of said bid,

then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly
understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event,
exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its
bond shall be in no way impaired or affected by any extension of the time within which the Contract
Manager may accept such bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and Surety have hereunto set their hands and seals, and such of
them as are corporations have caused their corporate seals to be hereto affixed and these presents to
be signed by their proper officers, the day and year first set forth above.

SEAL:

__________________________________________________________________
Principal

By: ____________________________________________
Title: _______________________________

____________________________________

Surety

By: _________________________________

Title: _______________________________

IMPORTANT - Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the project is located.

NOTE: Bidder shall provide current "Power of Attorney" for Attorney-in-fact who signs Bid Bond.
(THE BIDDER'S EXECUTION ON THE SIGNATURE PORTION OF THIS PROPOSAL SHALL ALSO CONSTITUTE AN ENDORSEMENT AND EXECUTION OF THOSE CERTIFICATIONS WHICH ARE A PART OF THIS PROPOSAL)

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

The bidder ____________________________________________, proposed Subcontractor ________________________________________________, hereby certifies that he has_____, has not _____, participated in a previous contract or subcontract subject to the equal opportunity clauses, as required by Executive Orders 10925, 1114, or 11246, and that, where required, he has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President’s Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b) (1)), and must be submitted by bidders and proposed Subcontractors only in connection with contracts and subcontracts, which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contracts or subcontracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime Contractors and Subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b) (1) prevents the award of contracts and subcontracts unless such Contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.
NON-COLLUSION AFFIDAVIT

(to be executed by bidder and submitted with bid)

The undersigned declares:

I am the __________________________ (title) of __________________________ (company), the party making the foregoing bid. The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose. Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on:

________________________ (date), at ______________________ (City), _________________ (State).

Dated: ________________________________ by: ________________________________

Title: ________________________________
DRUG FREE WORKPLACE

By submitting a bid, the Bidder asserts that they are in compliance with California’s Drug Free Workplace Act of 1990 and that they will provide a drug-free workplace by doing all of the following:

- Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the person’s or organization’s workplace and specifying the actions that will be taken against employees for violations of the prohibition.

Establishing a drug-free awareness program to inform employees about all of the following: The dangers of drug abuse in the workplace.

- The person’s or organization’s policy of maintaining a drug-free workplace.
- Any available drug counseling, rehabilitation and employee assistance programs.
- The penalties that may be imposed upon employees for drug abuse violations.
- Requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required by subdivision (a) of the act and that, as a condition of employment on the contract or grant, the employee agrees to abide by the terms of the statement.
PART 2 CONTRACT FORMS
CONTRACT AGREEMENT

THIS AGREEMENT, MADE THIS _____________day of ___________________, 2017, by and between the Contract Manager, hereinafter called "Contract Manager," and______________________________, doing business as (an individual), or (a partnership), or (a corporation), hereinafter called "Contractor."

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

2. The Contractor will commence and complete the construction of project as defined in the Contract Documents.

3. The Contractor will furnish all of the material, supplies, tools, equipment, labor and other services necessary for the construction and completion of the project described herein.

4. The Contractor will commence the work required by the Contract Documents to execute the contract within 5 calendar days after the date of the Notice to Proceed and will complete the same within the time provided in Section B-38 of the General Conditions, unless the period for completion is extended otherwise by the Contract Documents.

5. The Contractor agrees to perform all of the work described in the Contract Documents and comply with terms therein for the sum shown in the Bid Schedule and as amended by approved change order.

6. The Contract Documents consist of the Bidding Requirements, Contract Forms, Conditions of the Contract, the Specifications, and the Plans, including all modifications thereof incorporated into the documents before their execution, and including all other requirements incorporated by specific reference thereto. These form the Contract.

7. The Contract Manager will pay to the Contractor in the manner and at such times as set forth in the General Conditions such amounts as required by the ContractDocuments.

8. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

9. The general prevailing rates of per diem wages shall be paid by the Contractor.

10. DIR Registration. No Contractor or Subcontractor may be listed on a bid proposal for a public works project or be awarded a contract for public work on a public works project unless they possess an active registration with the Department of Industrial Relations covering the period of time proposed for this project. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
11. In response to Labor Code section 1773.3, the PWC-100 form will be completed by the awarding agency and provided to the Department of Industrial Relations on within five days of the Notice of Award. This form allows Contractors and Subcontractors to upload electronic certified payroll records to the Labor Commissioner (required for all projects awarded on or after April 1, 2015).

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in quadruplicate, each of which shall be deemed an original on the date first above written.

Northcoast Regional Land Trust
Contract Manager

ATTEST:

(seal)

By: _____________________________
Dan Ehresman, Executive Director

____________________________________
Notary Public

____________________________________
Contractor (Seal)

By: _____________________________
License No: __________________________
Expiration: __________________________
DIR No.: ____________________________
PERFORMANCE BOND

KNOW ALL PEOPLE BY THESE PRESENTS: That

____________________________________________________________________  
(Name of Contractor)  
____________________________________________________________________  
(Address of Contractor)  
a ____________________________________________, hereinafter called Principal, and  
(Corporation, Partnership, or Individual)  
____________________________________________________________________  
(Name of Surety)  
____________________________________________________________________  
(Address of Surety)  

hereinafter called Surety, are held and firmly bound unto  

Northcoast Regional Land Trust  
(Name of Contract Manager)  
P.O. Box 398, Bayside, CA 95524  
(Mailing Address of Contract Manager)  

hereinafter called Contract Manager, in the penal sum of  

____________________________________________________________________ Dollars, in lawful money  
of the United States, for the payment of which sum well and truly to be made, we bind ourselves,  
successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract  
with the Contract Manager, dated _________________ day of _________________ 2017, a copy of  
which is hereto attached and made a part hereof for the installation of:

Wood Creek Aquatic Habitat Enhancement Project Phase II Construction 2017  

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertaking,  
covenants, terms, conditions, and agreements of said contract during the original term thereof, and any  
extensions thereof which may be granted by the Contract Manager, with or without notice to the Surety  
and during one year (minimum) guaranty period, and if he shall satisfy all claims and demands incurred  
under such contract, and shall fully indemnify and save harmless the Contract Manager from all costs  
and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the  
Contract Manager all outlay and expense which the Contract Manager may incur in making good any  
default, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that 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 of the Specifications accompanying the same shall in any wise affect its obligation 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 Specifications.

PROVIDED, FURTHER, that no final settlement between the Contract Manager and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in 4 counterparts, each one of which shall be deemed an original, this ______________ day of _____________________ 2017.

ATTEST:

____________________________________
Principal

____________________________________
(Principal) Secretary

(SEAL)

By: __________________________________
Address: ______________________________

____________________________________
Witness as to Principal

____________________________________
(Address)

ATTEST:

____________________________________
Surety

____________________________________
Witness as to Surety

(Address)

By: __________________________________
Address: ______________________________

Attorney-in-Fact

____________________________________
(Address)

ATTEST:

____________________________________
Surety

____________________________________
Witness as to Surety

(Address)

By: __________________________________
Address: ______________________________

Attorney-in-Fact

____________________________________
(Address)

NOTE: Date of Bond must not be prior to date of Contract. If Contractor is Partnership, all partners should execute Bond.

IMPORTANT: Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the project is located.
PAYMENT BOND

KNOW ALL PEOPLE BY THESE PRESENTS: That

__________________________________________, hereinafter called Principal, and
(Corporation, Partnership, or Individual)

__________________________________________, hereinafter called Surety, are held and firmly bound unto

__________________________________________, hereinafter called Contract Manager, in the penal sum of

__________________________________________ Dollars, in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Contract Manager, dated _________________ day of _________________ 2017, a copy of which is hereto attached and made a part hereof for the installation of:

Wood Creek Aquatic Habitat Enhancement Project Phase II Construction 2017

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, Subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums of said work, and for all wages and fringe benefits of labor, performed in such work, whether by Subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety for value received hereby stipulated 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 way affect its obligation
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 specifications.

PROVIDED, FURTHER, that no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in 4 counterparts, each one of which shall be deemed an original, this _________________ day of _____________________ 2017.

ATTEST:

____________________________________
Principal

____________________________________
(Principal) Secretary

(SEAL)

By: _________________________________

Address: _____________________________

____________________________________
Witness as to Principal

____________________________________
(Address)

ATTEST:

____________________________________
Surety

____________________________________
Witness as to Surety

(Address)

By: _________________________________

Attorney-in-Fact

Address: _____________________________

(Address)

NOTE: Date of Bond must not be prior to date of Contract. If Contractor is Partnership, all partners should execute Bond.

IMPORTANT: Surety companies executing Bonds must appear on the Treasury Department’s most current list (Circular 570 as amended) and be authorized to transact business in the State where the project is located.
NOTICE OF AWARD

To: ____________________________________
____________________________________
____________________________________

Project Description:

Wood Creek Aquatic Habitat Enhancement Project Phase II Construction 2017

The Contract Manager has considered the Bid submitted by you for the above described Work in response to its Advertisement for Bids dated_______________________________ and Information for Bidders.

You are hereby notified that your BID for the Bid Schedule has been accepted for items in the amount of $ ________________________________________________.

You are required by the Information for BIDDERS to execute the Agreement and furnish the required Contractor’s certificates of insurance within fourteen (14) calendar days from the date this Notice is received by you.

If you fail to execute said Agreement and to furnish said INSURANCE within fourteen (14) calendar days from the date of receipt of this Notice, said Contract Manager will be entitled to consider all your rights arising out of the Contract Manager’s acceptance of your Bid as abandoned and as a forfeiture of your Bid Bond. The Contract Manager will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this NOTICE OF AWARD to the Contract Manager within two (2) calendar days.

Dated this __________________________ day of ___________________ 2017.

By: _____________________________
Dan Ehresman, Executive Director
Northcoast Regional Land Trust

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby acknowledged by:

Dated this __________________________ day of ___________________ 2017.

By: _____________________________  Title: ___________________________
NOTICE TO PROCEED

To: ____________________________________ Date: _____________________________

____________________________________ Project: Wood Creek Aquatic Habitat
____________________________________ Enhancement Project Phase II Construction
2017

You are hereby notified to commence work in accordance with the Agreement dated on or before
_________________________________, and you are to complete the work within _______ consecutive
working days thereafter. The date of completion of all work is therefore ________________.

By: _____________________________
Contract Manager
Dan Ehresman, Executive Director
Northcoast Regional Land Trust

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF PROCEED is hereby acknowledged by:

________________________________________________________________
Dated this __________________________ day of ___________________ 2017.

By: _____________________________ Title: _____________________________
CONTRACTOR’S CERTIFICATE REGARDING WORKMEN’S COMPENSATION

Labor Code Section 3700,

“Every employer except the State and all political subdivisions or institutions thereof, shall secure the payment of compensation in one or more of the following ways:
By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this State.
By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.

I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for workmen’s compensation or to undertake self-insurance in accordance with the provisions before commencing the performance of the work of this contract.

By: _________________________________
Title: __________________________________
Date: __________________________________

(In accordance with Article 5 (commencing at Section 1860, Chapter 1, Part 7, Division 2, of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under this contract).
PART 3: CONDITIONS OF THE CONTRACT
SECTION A: DEFINITIONS AND TERMS

A-1 General

Wherever the following abbreviations and terms, or pronouns in place of them, are used in these Conditions and other Contract Documents of which these Conditions are a part, the intent and meaning shall be interpreted as provided below.

A-2 Abbreviations

The following abbreviations may be used in the Contract Documents:

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AA</td>
<td>Aluminum Association</td>
</tr>
<tr>
<td>AASHTO</td>
<td>American Association of State Highway Officials</td>
</tr>
<tr>
<td>ABMA</td>
<td>American Boiler Manufacturer's Association</td>
</tr>
<tr>
<td>ACI</td>
<td>The American Concrete Institute</td>
</tr>
<tr>
<td>AGA</td>
<td>American Gas Association</td>
</tr>
<tr>
<td>AGC</td>
<td>Associated General Contractors</td>
</tr>
<tr>
<td>AGMA</td>
<td>American Gear Manufacturer's Association</td>
</tr>
<tr>
<td>AI</td>
<td>The Asphalt Institute</td>
</tr>
<tr>
<td>AIA</td>
<td>American Institute of Engineers</td>
</tr>
<tr>
<td>AISC</td>
<td>American Institute of Steel Construction</td>
</tr>
<tr>
<td>AISE</td>
<td>American Iron and Steel Institute</td>
</tr>
<tr>
<td>ALSC</td>
<td>American Lumber Standards Committee</td>
</tr>
<tr>
<td>ANSI</td>
<td>American National Standards Institute, Inc.</td>
</tr>
<tr>
<td>API</td>
<td>American Petroleum Institute</td>
</tr>
<tr>
<td>APWA</td>
<td>American Public Works Association</td>
</tr>
<tr>
<td>AREA</td>
<td>American Railway Engineering Association</td>
</tr>
<tr>
<td>ASCE</td>
<td>American Society of Civil Engineers</td>
</tr>
<tr>
<td>ASME</td>
<td>American Society of Mechanical Engineers</td>
</tr>
<tr>
<td>ASTM</td>
<td>American Society for Testing and Materials</td>
</tr>
<tr>
<td>AWPA</td>
<td>American Wood Preservers' Association</td>
</tr>
<tr>
<td>AWS</td>
<td>American Welding Society</td>
</tr>
<tr>
<td>AWWA</td>
<td>American Water Works Association</td>
</tr>
<tr>
<td>BHMA</td>
<td>Builders Hardware Manufacturers Association</td>
</tr>
<tr>
<td>CCMTC</td>
<td>California Concrete Masonry Technical Committee</td>
</tr>
<tr>
<td>CRSI</td>
<td>Concrete Reinforcement Steel Institute</td>
</tr>
<tr>
<td>DFPA</td>
<td>Douglas Fir Plywood Association</td>
</tr>
<tr>
<td>ETL</td>
<td>Electrical Testing Laboratory</td>
</tr>
<tr>
<td>FS</td>
<td>Federal Specification</td>
</tr>
<tr>
<td>ICBO</td>
<td>International Conference of Building Officials</td>
</tr>
<tr>
<td>IEEE</td>
<td>The Institute of Electrical and Electronics Engineers</td>
</tr>
<tr>
<td>IES</td>
<td>Illuminating Engineering Society</td>
</tr>
<tr>
<td>IPCEA</td>
<td>Insulated Power Cable Engineers Association</td>
</tr>
<tr>
<td>MBMA</td>
<td>Metal Building Manufacturer's Association</td>
</tr>
<tr>
<td>MSS</td>
<td>Manufacturers Standardization Society of the Valve and Fitting Industry Standards</td>
</tr>
</tbody>
</table>
A-3 Definitions

a) **Acceptance** - The formal written acceptance by Contract Manager of the entire Contract which has been completed in all respects in accordance with the Specifications and any approved modifications.

b) **Addenda** - Written or graphic instruments issued prior to the execution of the Agreement which modify or interpret the Contract Documents, Drawings and Specifications by additions, deletions, clarifications or corrections.

c) **As Approved** - The words "as approved" unless otherwise qualified, shall be understood to be followed by the words "by Contract Manager."

d) **Bid** - The offer of the bidder for the work when made out and submitted on the prescribed bid form, properly signed and guaranteed. A Bid is also known as a Proposal.

e) **Bid Bond** - The cash, cashier's check, certified check, or bidder's bond accompanying the bid submitted by the bidder, as a guarantee that the bidder will enter into a Contract with Contract Manager for the performance of work herein described.

f) **Bidder** - Any individual, firm, partnership or corporation submitting a bid for the work contemplated, and acting directly or through a duly authorized representative.

g) **Change Orders** - A written order from Contract Manager to the Contractor authorizing an addition, deletion, or revision in the work within the general scope of the Contract Documents or authorizing adjustment in the Contract price or Contract Time Limit.

h) **Claim** - A separate demand by the Contractor for
i. a Time Limit extension,
ii. payment of money or damages arising from work done by or on behalf of the Contractor pursuant to the Contract for a public work and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to, or
iii. an amount the payment of which is disputed by Contract Manager.

i) **Contract** - The written agreement covering the performance of the work and the furnishing of labor, materials, tools and equipment in the construction of the work. The Contract shall include all Contract Documents and supplemental agreements amending or extending the work contemplated which may be required to complete the work in a substantial and acceptable manner. Supplemental agreements are written agreements covering alterations, amendments or extensions to the Contract and include Addenda and Contract Change Orders.

j) **Contract Documents** – Those items so designated in the Agreement, and which together comprise the Contract.

k) **Contract Manager** – The Northcoast Regional Land Trust.

l) **Contract Manager’s Representative** – The term Contract Manager’s Representative shall be understood to indicate the authorized representative of the Contract Manager.

m) **Contract Price** - Total monies payable to the Contractor under the terms and conditions of the Contract Documents.

n) **Contract Time** - The Time Limit stated in the Contract Documents for the completion of work.

o) **Contractor** - The person or persons, firm, partnership or corporation or other entity that has entered into the Contract with Contract Manager to perform the work.

p) **Contract Drawings** - "Contract Drawings" or "drawings" means and includes:

i. All drawings which have been prepared on behalf of Contract Manager and which are included in the Contract Documents and all modifying drawings issued by addenda thereto;
ii. All drawings submitted pursuant to the terms of the Contract by the Contractor with his proposal and by the Contractor to Contract Manager during the progress of the work when accepted by Contract Manager.
iii. Except where a specific type of drawing is indicated, the terms "Drawings" and "Plans" are used interchangeably throughout the Contract Documents and the Plans are Drawings as defined above.

q) **County** - County of Humboldt, California.

r) **Date of Execution of the Contract** - The date on which the Contract is signed by Contract Manager.
s) **Datum** - The figures given in the Specifications or upon the drawings after the word "Elevation" or an abbreviation of it shall mean with respect to the Control Points shown on the Plans.

t) **Days** - Unless otherwise designated, days as used in the Contract Documents shall mean calendar days.

u) **Field Order** - A written order effecting a change in the Work not involving an adjustment in the Contract Price or an extension of Contract Time, issued by Contract Manager or Project Engineer to the Contractor during construction.

v) **His** - "His" shall include "her" and "its".

w) **Install** - "Install" wherever and in whatever manner used shall mean the installation, complete in place of an item.

x) **Notice of Award** - The written notice of the acceptance of the Bid from Contract Manager to the successful Bidder.

y) **Notice to Proceed** - Written communication issued by Contract Manager to the Contractor authorizing him to proceed with the work and establishing the date of commencement of the work.

z) **Or Equal** - The terms "or equal" or "approved equal" shall be understood to indicate that the "equal" product be the same or better than the product named in function, performance, reliability, quality and general configuration. Determination of equality in reference to the project design requirement will be made in writing by Contract Manager.

aa) **Plans or Specification Drawings** - The term "Plans, Drawings, or Specification Drawings" refers to the official Plans, profiles, cross sections, elevations, details, and other working drawings and supplementary drawings, or reproductions thereof, signed by the Project Engineer, which show the location, character, dimensions, and details of the work to be performed. Plans may either be bound in the same book as the balance of the Contract Documents or bound in separate sets, and are a part of the Contract Documents, regardless of the method of binding.

bb) **Prevailing Wage Laws** - The successful Bidder must comply with all prevailing wage laws applicable to the Project, and related requirements contained in this Project Manual.

cc) **Project** - The undertaking performed as provided by the Contract Documents.

dd) **Project Engineer** - Wherever in these documents the word "Project Engineer" appears, it shall be understood to mean U.S. Fish and Wildlife Service’s design engineer, Conor Shea, P.E.

ee) **Project Biologist** - Authorized representative of Contract Manager who is assigned to the Project to supervise installation of wood habitat structures.
ff) **Project Inspector** - Authorized representative of Contract Manager who is assigned to the Project or any part thereof.

gg) **Provide** - "Provide" wherever and in whatever manner used shall be understood to mean furnish and install.

hh) **Service of Notice** - Any notice from one party to the other under the Contract shall be in writing and shall be dated and signed by the party giving such notice or by a duly authorized representative thereof. Any such notice shall not be effective for any purpose whatsoever unless service in the following manner:

   i. If the notice is given to Contract Manager by personal delivery thereof, Contract Manager’s Representative or by depositing the notice in the U.S. mail, enclosed in a sealed envelope addressed to Northcoast Regional Land Trust, P.O. Box 398, Bayside, CA 95524, Attn: Michael Cipra, postage prepaid, by certified mail return receipt requested.

   ii. If the notice is given to the Contractor, by personal delivery to the Contractor or its duly authorized representative at the project site or by depositing in the U.S. mail, enclosed in a sealed envelope address to the Contractor on the Contract Form, postage prepaid, by certified mail, return receipt request.

   iii. If the notice is given to the surety or any other person, by personal delivery to such surety or any other person by personal delivery to such surety or other person by depositing in the U.S. mail, enclosed in a sealed envelope, addressed to the surety or other person at the address of such surety or other person last communicated to the party giving the notice, postage prepaid, by certified mail return receipt requested.

ii) **Shall or Will** - “Shall,” or “Will,” whenever used to stipulate anything, means shall or will be done or be performed by either the Contractor or Contract Manager and means that the Contractor or Contract Manager has thereby entered into a covenant with the other party to do or perform the same.

jj) **Shop Drawing** - All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the Contractor, a Subcontractor, manufacturer, supplier or distributor, to illustrate some portion of the Work.

kk) **Shown** - “Shown,” “indicated,” “detailed,” and words of like import, wherever and in whatever manner used, with or without reference to the drawings, means shown, indicated or detailed on the drawings or plans.

ll) **Specifications** - A part of the Contract Documents consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship, including the General Conditions and Supplemental General Conditions.

mm) **Specified** - “Specified,” “described,” or “noted,” wherever and in whatever manner used, means as specified, described or noted in the Contract Documents.

nn) **Subcontractors** - The term "Subcontractor", as employed herein, includes only those having a direct contract with the Contractor and it includes one who furnishes material
worked to a special design according to the plans or specifications of this work, but does not include one who merely furnishes material not so worked and would be considered a supplier only.

oo) **Substantial Completion** - That date as certified by Contract Manager when the construction of the Project or a specified part thereof is sufficiently completed, in accordance with the Contract Documents, so that the Project or specified part can be utilized for the purposes for which it is intended.

Contract Manager may, at its sole discretion, issue a written notice of substantial completion for the purpose of establishing the starting date for specific equipment guarantees, and to establish the date that Contract Manager will assume the responsibility for the cost of operating such equipment. Said notice shall not be considered as final acceptance of any portion of the work or relieve the Contractor from completing the remaining work within the specified time and in full compliance with the Contract Documents.

pp) **Sufficient** - “Sufficient,” “necessary,” or “proper,” “acceptable,” “satisfactory,” “desirable,” and words of like import, wherever and in whatever manner used, with or without reference to Contract Manager, means sufficient, necessary, proper, acceptable, satisfactory and desirable in the judgment of Contract Manager.

qq) **Supplementary Conditions** - Modifications to General Conditions required by a Federal Agency for participation in the project and approved by the Agency in writing prior to inclusion in the Contract Documents, or such requirements that may be imposed by applicable State or local laws.

References to “Supplemental General Conditions” in the General Conditions and elsewhere in the Contract Documents shall be construed to read “Supplementary Conditions.”

rr) **Supplier** - Any person or organization who supplies materials or equipment for the Work, including that fabricated to a special design, but who does not perform labor at the site.

ss) **Time Limit** (time period) - Contract Time.

tt) **Work** - All the work specified, indicated, shown or contemplated in the Contract to construct the improvements, including all alterations, amendments or extensions thereto made by Contract Change Order or other written orders of Contract Manager.

uu) **Written Notice** - “Written Notice” shall be deemed to have been duly served when delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended or if delivered at or sent by registered mail to the last business address known to it who gives the notice.

vv) Whenever in the Specifications or upon the drawings the words DIRECTED, REQUIRED, PERMITTED, ORDERED, DESIGNATED, PRESCRIBED, or words of like import are used, it shall be understood that the direction, requirement, permission, order, designation or prescription of Contract Manager is intended, and similarly the words APPROVED,
ACCEPTABLE, SATISFACTORY, or words of like import, shall mean approved or acceptable to, or satisfactory to Contract Manager, unless otherwise expressly stated.
SECTION B: GENERAL CONDITIONS

ARTICLE I. SCOPE OF WORK

B-1 Intent of Contract Documents

The intent of the Contract Documents is to prescribe the details for the construction and completion of the work which the Contractor undertakes to perform in accordance with the terms of the Contract. Where the Specifications and Plans describe portions of the work in general terms, but not in complete detail, it is understood that only the best general practice is to prevail and that only materials and workmanship of the first quality are to be used. Unless otherwise specified the Contractor shall furnish all labor, materials, tools, equipment and incidentals and do all the work involved in performing the Contract in a satisfactory and workmanlike manner, ready for use occupancy or operation.

The technical provisions are presented in sections for convenience. However, this presentation does not necessarily delineate trades or limits of responsibility. All sections of the Specifications and Plans are interdependent and applicable to the project as a whole.

The Contract Documents are complementary, and what is called for in any one shall be as binding as if called for in all.

Anything shown on the Drawings and not mentioned in the Specifications or mentioned in the Specifications and not shown on the Drawings shall have the same effect as if shown or mentioned respectively in both. Any work shown on one Drawing shall be construed to be shown in all Drawings and the Contractor will coordinate the Work and the Drawings. If any portion of the Contract Documents shall be in conflict with any other portion, the various documents comprising the Contract Documents shall govern in the following order of precedence: the Contract; the Bid; any Supplementary or Special Conditions; the condition of all permits; Instructions to Bidders; the Plans, the General Conditions; and the Specifications. Technical Specifications take priority over general Specifications and detail Drawings take precedence over general Drawings. As between schedules and information given on Drawings, the Schedules shall govern. As between figures given on Drawings and the scales measurements, the figures shall govern. As between large-scale Drawings and small-scale Drawings, the larger scale shall govern. Any conflict or inconsistency between or in the drawings shall be submitted to the Project Engineer through the Contract Manager, or through the Project Inspector in writing. Work done by the Contractor after his discovery of such discrepancies, inconsistencies or ambiguities shall be done at the Contractor's own risk.

B-2 Contractor's Understanding

It is understood and agreed that the Contractor has, by careful examination, satisfied itself as to the nature and location of the work, the conformation of the ground, the character, quality and quantity of the materials to be encountered, the character of equipment and facilities needed preliminary to and during the prosecution of the work, all permit conditions and requirements, the general and local conditions, and all other matters which can in any way affect the work under this Contract. No verbal agreement or conversation with any officer, agent or employee of the Contract Manager or the Project Engineer, either before or after the execution of this Contract, shall affect or modify any of the terms or obligations herein contained.
B-3 Changes in the Work

The Contract Manager may, at any time, by written order make changes in the work including but not limited to: (a) changes in the specifications on drawings; (b) changes in the sequence, method or manner of performance of the work; (c) changes in the furnished facilities, equipment, materials, services or site; or (d) changes directing acceleration of the work. If such changes cause an increase or decrease in the Contractor's cost of, or time required for, performance of the Contract an equitable adjustment will be made and the Contract modified in writing accordingly.

Such modification will be in the form of a Change Order which will set forth the work to be done or the method by which the change and cost adjustment, if any, will be determined, and the time of completion of the work.

The compensation to be paid for any extra work or change shall be determined in one or more of the following ways or at Contract Manager's sole election:

(a) By unit prices previously approved (unit prices previously approved shall be used in all cases for similar units unless mutually agreed that for some reason they are not applicable);

(b) By estimate and acceptance of an agreed upon lump sum; or

(c) On a time and materials basis involving the actual necessary expenses and other services necessary to complete the work. In addition, there shall be added an amount to be agreed upon but not to exceed fifteen (15) percent of the actual necessary expense to cover other costs that are not covered under labor, equipment, materials, and Subcontractors. In the events that items (a) and (b) above are not applicable, then this latter method (c) shall be used. Markup by Subcontractors on their work shall no exceed fifteen percent. Contractor's markup on Subcontractor's work shall not exceed five (5) percent.

The Contractor shall keep full and complete records of the actual cost of such work in the form and manner prescribed by the Contract Manager and shall permit the Contract Manager to have access to such records as may be necessary to assist in the determination of the compensation payable for such work.

The Contract Manager or Project Engineer also may at any time by issuing a Field Order make changes in the details of the Work. The Contractor shall proceed with the performance of any change in the work so ordered by the Contract Manager unless the Contractor believes that such Field Order entitles it to a change in the Contract Price or Time, or both in which event the Contractor shall give the Contract Manager written notice thereof within seven (7) days after the receipt of the ordered change. The Contractor shall not execute such changes pending the receipt of an executed change order or further instruction from the Contract Manager.

If the Contractor is delayed in completing by reason of any change made pursuant to this section, the time for completion of the work shall be extended by change order for a period agreed to, commensurate with such delay. The Contractor shall not be subjected to any claim for liquidated damages for this period of time, but the Contractor shall have no claim for any other compensation for any such delay.
B-4 Procedures and Allowable Costs on Changes

(a) All changes which affect the cost or time of the construction of the project must be authorized by means of a Change Order. The Change Order will include extra work, work for which quantities have been altered from those shown in the bidding schedule, as well as decreases or increases in the quantities of installed units which are different than those shown in the bidding schedule because of final measurements. All changes should be recorded on a Change Order as they occur. Each Change Order must contain complete and detailed justification for all items addressed by the Change Order.

(b) If the change in or addition to the work will result in an increase in the contract sum, the Contract Manager shall have the right to require the performance thereof in any of the following ways, at Contract Manager's sole election:

(i) By unit prices previously approved (unit prices previously approved shall be used in all cases for similar units unless mutually agreed that for some reason they are not applicable);

(ii) By estimate and acceptance of an agreed upon lump sum; or

(iii) On a time and materials basis involving the actual necessary expenses and other services necessary to complete the work. In addition, there shall be added an amount to be agreed upon but not to exceed fifteen (15) percent of the actual necessary expense to cover other costs that are not covered under labor, equipment, materials, and Subcontractors. In the events that items (a) and (b) above are not applicable, then this latter method (c) shall be used. Markup by Subcontractors on their work shall not exceed fifteen percent. Contractor's markup on Subcontractor's work shall not exceed five percent (5%).

(c) If the Contract Manager elects to have the Change in the Work performed on a lump sum basis, such election shall be based on a lump sum proposal which shall be submitted by the Contractor within ten (10) days of the Contract Manager's request therefore. Request for a lump sum proposal shall not be deemed an election to have the work performed on a lump sum basis. The Contractor's proposal shall be itemized and segregated by labor and materials for the various components of the change (no aggregate labor total will be acceptable) and shall be accompanied by signed proposals of any Subcontractors which will perform any portion of the change, and of any persons who will furnish materials or equipment for incorporation therein. The proposal shall also include the Contractor's estimate of the time required to perform said changes or additional work.

The portion of the proposal relating to labor, whether by the Contractor's forces or the forces of any of its Subcontractors, may include reasonably anticipated gross wages of Job Site labor, including foremen, who will be directly involved in the Change in the Work (for such time as they will be so involved), plus payroll costs (including premium costs of overtime labor, if overtime is anticipated, social security, Federal or State unemployment insurance taxes and fringe benefits required by collective bargaining agreements entered into by the Contractor or any such Subcontractor in connection with such labor) and up to fifteen percent (15%) of such anticipated gross wages, but not payroll costs as overhead and profit for the Contractor or any such
Subcontractor, as applicable (such overhead and profit to include all supervision except foremen.)

The portion of the proposal relating to materials may include the reasonably anticipated direct costs to the Contractor or to any of its Subcontractors of materials to be purchased for incorporation in the Change in the Work, plus transportation and applicable sales or use taxes and up to fifteen percent (15%) of such anticipated gross wages, but not payroll costs, as overhead and profit for the Contractor or any such Subcontractor, as applicable (such overhead and profit to include all supervision except foremen.)

The portion of the proposal relating to materials may include the reasonably anticipated direct costs to the Contractor or to any of its Subcontractors of materials to be purchased for incorporation in the Change in the Work, plus transportation and applicable sales or use taxes and up to fifteen percent (15%) of said direct material costs as indirect costs for the Contractor or any such Subcontractor (such indirect costs shall include all small tools), and may further include the Contractor's and any of its Subcontractors' reasonably anticipated rental costs in connection with the Change in the Work (either actual rates or discounted local published rates), plus up to five percent (5%) commission for the Contractor or any such Subcontractors, as applicable. If any of the items included in the lump sum proposal are covered by unit prices contained in the contract document, the Contract Manager may, if it requires the Change in the Work to be performed on a lump sum basis, elect to use these unit prices in lieu of the similar items included in the lump sum proposal in which event an appropriate deduction will be made in lump sum amount. No overhead and profit shall be applied to any unit prices.

The lump sum proposal may include up to five percent (5%) of the amount which the Contractor will pay to any of its Subcontractors for the Change in the Work as a commission to the Contractor.

(d) In the event that the Contractor fails to submit its proposal within the designated period, the Contract Manager may direct the Contractor to proceed with the Change or Addition to the Work and the Contractor shall so proceed. The Contract Manager shall determine the reasonable costs and time to perform the Work in question, which determination when approved by Contract Manager shall be final and binding upon the Contractor.

(e) In the event that the parties are unable to agree as to the reasonable costs and time to perform the change in or addition to the work based upon the Contractor's proposal and the Contract Manager do not elect to have the change in the work performed on a time and material basis, the Contract Manager shall make a determination of the reasonable cost and time to perform the change in the work, based upon his own estimates, the Contractor's submission or combination thereof. A Change Order shall be issued for the amount of costs and time determined by the Contract Manager and shall become binding upon the Contractor unless the Contractor submits its protest in writing to the Contract Manager within thirty (30) days of the issuance of the Change Order. The Contract Manager has the right to direct the Contractor in writing to perform the Change in the Work which is the subject of the Change Order. Failure of the parties to reach agreement regarding the costs and time of the performing the Change in the Work and/or any pending protest shall not relieve the Contractor from performing the Change in the work promptly and expeditiously.
(f) If the Contract Manager elects to have the Change in the Work performed on a time and material basis, the same shall be performed, whether by the Contractor's forces or the forces of any of its Subcontractors or Sub-Subcontractors, at actual costs to the entity or entities performing the Change in the Work (without any charge for administration, clerical expense, supervision or superintendence of any nature whatsoever, including foremen, or the costs, use or rental of tools or plant), plus fifteen percent (15%) to cover other costs that are not covered under labor, equipment, materials, and Subcontractors (except that this fifteen percent (15%) shall not be applied against any payroll costs, defined herein with respect to lump sum proposals). If the entity or entities actually performing the work are Subcontractors or Sub-Subcontractors, the Contractor shall be allowed five percent (5%) of the total charge of the performing entity or entities (including mark-up) as Contractor's commission. No mark-ups shall be allowed hereunder. The Contractor shall submit to the Contract Manager daily work and material tickets, to include the identification number assigned to the Change in the Work, the location and description of the Change in the Work, the classification of labor employed (and names and social security numbers), the material used, the equipment rented (not tools) and such other evidence of cost as the Contract Manager may require. The Contract Manager may require authentication of all time and material tickets and invoices by persons designated by the Contract Manager for such purpose. The failure of the Contractor to secure any required authentication shall, if the Contract Manager elects to treat it as such, constitute a waiver by the Contractor of any claim for the cost of that portion of the Change in the Work covered by a non-authenticated ticket or invoice; provided, however, that the authentication of any such ticket or invoice by the Contract Manager shall not constitute an acknowledgment by the Contract Manager that the items thereon were reasonably required for the Change in the Work.

(g) No Additional percentage for actual necessary expense to cover other costs that are not covered under labor, equipment, materials, and Subcontractors will be paid by the Contract Manager on account of a Change in the Work except as specifically provided in this Section B-4. The additional percentage or commission as allowed under this paragraph, shall be deemed to include all costs and expenses which the Contractor or any of its Subcontractors may incur in the performance of the Change in the Work and which are not otherwise specifically recoverable by them pursuant to this paragraph.

(h) The Contractor shall not be entitled to any amount for indirect costs, damages or expenses of any nature, including, but not limited to, so-called "impact" costs, labor inefficiency, wage, material or other escalations beyond the prices upon which the proposal is based and to which the parties have agreed pursuant to the provisions of this section, and which the Contractor, its Subcontractors and Sub-Subcontractors or any other person may incur as a result of delays, interferences, suspensions, changes in sequence or the like, for whatever cause, whether reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable, arising from the performance of any and all changes in the work performed pursuant to this section. It is understood and agreed that the Contractor's sole and exclusive remedy in such event shall be recovery of its direct costs as compensable hereunder and an extension of the time of the Contract, but only in accordance with the provisions of the Contract Documents.

The Contractor agrees that it shall not be entitled to claim damages for anticipated profits on any portion of work that may be deleted. The amount of any adjustment for work deleted shall be estimated at the time deletion of work is ordered and the estimated adjustment will be deducted for the subsequent monthly pay estimates.
The Contract Manager reserves the right to contract with any person or firm other than the Contractor for any or all extra work.

B-5 Unilateral Change in or Addition to the Work

Notwithstanding the above, the Contract Manager, directly or through the Project Engineer, may direct the Contractor in writing to perform changes in or additions to the scope of the contract. The Contractor shall perform such work and the parties shall proceed pursuant to the provisions of Section B-4.

B-6 Differing Site Conditions

The Contractor shall promptly, and before the following conditions are disturbed, notify the Contract Manager in writing of any:

(a) Material that the Contractor believes may be material that is hazardous waste, as defined in Section 25118 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law; or

(b) Subsurface or latent physical conditions at the site differing from those indicated in the Contract Documents; or

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

The Project Engineer shall thereupon promptly investigate the conditions. If the Project Engineer finds that they do involve hazardous waste, or do materially differ and cause any decrease or increase in the Contractor’s cost or time of performance, the Contract Manager will issue a change order as appropriate. Any increase or decrease in the cost of the work or the time for performance shall be adjusted in the manner provided herein for adjustments as to extra and/or additional work and changes. The procedures applicable to claims per extra costs shall then apply.

Contractor shall expect wet or flooded soil conditions and encountering deleterious materials that do not constitute a change.

B-7 Claims for Extra Costs

(a) The plans for work show the conditions as they are supposed or believed by the Project Engineer to exist, but it is neither intended nor to be inferred that the conditions as shown thereon constitute a representation by the Contract Manager or its officers that such conditions are universally existent nor shall the Contract Manager or any of its officers or representatives be liable for any loss sustained by the Contractor as a result of any variance between conditions as shown on the Plans and alternate conditions revealed during the progress of the Work, or otherwise.

(b) The Contract Manager assumes no responsibility for any representations made by any of its officers or agents during or prior to the execution of this Contract, unless (1) such
representations are expressly stated in the Contract and (2) the Contract expressly provides that the responsibility therefore is assumed by the Contract Manager.

(c) It is hereby mutually agreed that the Contractor shall not be entitled to the payment of any additional compensation for any cause, including any act, or failure to act, by the Project Engineer or the Contract Manager, or the happening of any event, thing or occurrence, unless the Contractor shall have given the Contract Manager due written notice of potential claims as hereinafter specified.

(d) The written notice of potential claims shall set forth the reasons for which the Contractor believes additional compensation will or may be due, the nature of the costs involved, and, insofar as possible, the amount of the potential claim. Except as provided in Section B-6, the notice as above required shall be given to the Contract Manager at least 48 hours prior to the time that the Contractor commences performance of the work giving rise to the potential claim for additional compensation. If such notice is not given, the Contractor shall be barred from making any such claim for extra compensation.

(e) The Contractor may submit a claim to the Contract Manager concerning any matter for which a protest under Section B-3 or a notice of potential claim is filed within sixty (60) days following the submission of said protest or notice, unless, due to the nature of the claim or the uncompleted state of the work, it is impracticable to determine the amount or the extent of the claim within such period, in which case a claim may be submitted at the earliest time thereafter that such determination can be made, but in no event later than the final release by the Contractor provided for in Section B-77. The claims shall set forth clearly and in detail, for each item of additional compensation claimed, the reasons for the claim, reference to applicable provisions of the Specifications, the nature and the amount of the cost involved, the computations used in determining such costs, and all pertinent factual data. The Contractor shall maintain complete and accurate records of the cost or any portion of the work for which additional compensation is claimed, and shall provide the Project Engineer with copies thereof, as required.

(f) The Contract Manager will, within a reasonable time after submission of the Contractor’s claim, make decisions in writing on all claims of the Contractor. All such decisions of the Contract Manager shall be final unless the Contractor shall within ten (10) days after receipt of the Contract Manager’s decision, file with the Contract Manager a written protest, stating clearly and in detail the basis thereof. Such protest will be forwarded promptly to the Contract Manager, which will issue a decision upon each such protest, and the Contract Manager’s decision will be final. Pending such decision, the Contractor shall proceed with its work in accordance with the determination or instructions of the Contract Manager. It is hereby agreed that the Contractor’s failure to protest the Contract Manager’s determination or instructions, within ten (10) days from and after the Contract Manager’s determinations or instructions, shall constitute a waiver by the Contractor of all its rights to further protest, judicial or otherwise.

(g) It is the intention of this Section that the differences between the parties, arising under and by virtue of the Contract, be brought to the attention of the Contract Manager at the earliest possible time in order that such matters may be settled, if possible or other appropriate action promptly taken. The Contractor hereby agrees that it shall have no right to additional compensation for any claim that may be based on any act, failure to act, event, thing or occurrence for which no written notice of potential claim as herein required was timely filed.
(h) In the event of an emergency endangering life or property, the Contractor shall act as stated in Section B-67 herein, and after execution of the emergency work shall present an accounting of labor, materials and equipment in connection therewith. The procedure for any payment that may be due for emergency work will be as specified in Section B-3 herein.

B-8 Disputes

Except as otherwise specifically provided in the Contract Documents, the Contract Manager will initially decide all claims of the Contractor and all disputes arising under and by virtue of the Contract. Such claim or dispute will be processed and decided by the Contract Manager as soon as practicable after its submission and the submission or availability of any additional information necessary to its decision. If the Contractor is dissatisfied with the Contract Manager’s decision, the Contractor may, within 15 days from the date of the Contract Manager’s decision, follow the procedures set forth in Section B-60. If the Contractor fails to follow the procedures set forth in Section B-60 within the 15 day period, then the Contract Manager’s decision shall be final, conclusive and binding on the Contractor.

B-9 Guarantee

(a) In addition to warranties, representations and guarantees stated elsewhere in the Contract Documents, the Contractor unconditionally guarantees all materials and workmanship furnished hereunder, and agrees to replace at its sole cost and expense, and to the satisfaction of the Project Engineer and the Contract Manager, any and all materials which may be defective or improperly installed.

(b) The Contractor shall repair or replace to the satisfaction of the Contract Manager any or all such work that may prove defective in workmanship or materials, ordinary wear and tear excepted, together with any other work which may be damaged or displaced in so doing.

(c) In the event of failure to comply with the above stated conditions within a reasonable time, the Contract Manager is authorized to have the defect repaired and made good at the expense of the Contractor who will pay the costs and charges therefore immediately upon demand, including any reasonable management and administrative costs, and engineering, legal and other consultant fees incurred to enforce this section.

(d) The signing of the Contract by the Contractor shall constitute execution of the above guarantees. Except as otherwise provided in this Contract, the guarantees and warranties shall remain in effect through the one-year maintenance warranty period specified in the Faithful Performance Bond.
ARTICLE II. CONTROL OF THE WORK

B-10 Authority of the Project Engineer

(a) The Project Engineer is the representative of the Contract Manager and has full authority to interpret the Contract Documents, to conduct the construction review and inspection of the Contractor’s performance, and to decide questions which arise during the course of the work and its decisions on these matters shall be final and conclusive. The Project Engineer has the authority to reject all work and materials which do not conform to the Contract Documents, and has the authority to stop the work whenever such stoppage may be necessary to insure the proper execution of the Contract.

(b) If at any time the Contractor's work force, tools, plant or equipment appear to the Project Engineer to be insufficient or inappropriate to secure the required quality of work or the proper rate of progress, the Project Engineer may order the Contractor to increase their efficiency, improve their character, to augment their number or to substitute other personnel, new tools, plant or equipment, as the case may be, and the Contractor shall comply with such order.

Neither the failure of the Project Engineer to demand such increase of efficiency, number, or improvement, nor the compliance by the Contractor with the demand, shall relieve the Contractor of its obligation to provide quality work at the rate of progress necessary to complete the work within the specified time.

(c) The Project Engineer shall have the authority to make minor changes in the work, not involving extra costs, and not inconsistent with the purposes of the work.

(d) Any order given by the Project Engineer, not otherwise required by the Contract Documents to be in writing shall, on request of the Contractor, be given or confirmed by the Project Engineer in writing.

(e) Whenever work, methods of procedure, or any other matters are made subject to direction or approval, such direction or approval will be given by the Project Engineer.

(f) The Project Engineer shall not be responsible for the construction means, controls techniques, sequences procedures or construction safety.

(g) It is expressly agreed and understood that the Project Engineer will have no liability whatsoever resulting from the obligations entered into under the Contract; that the Contract Manager must look solely to the Contractor for the furnishing of the work; that the Contractor must look solely to the Contract Manager for payment; and that the Contract Manager and the Contractor must look solely to each other for the enforcement of any claims or liabilities arising under or by reason of the Contract.

B-11 Drawings

(a) Drawings furnished herewith are for bidding purposes. Additional copies may be obtained by paying the actual cost of reproduction. The Contractor shall have no claim for excusable delay on account of the failure of the Contract Manager to deliver such drawings unless the Contract
Manager shall have failed to deliver the same within two weeks after receipt of written demand therefore from the Contractor. The Contractor shall keep one copy of said drawings, in good order, available to the Contract Manager and its representatives, and convenient to the working site. The Contractor shall maintain on the job site and make available to the Contract Manager on request, one current full-sized marked-up set of design drawings which accurately indicate all variations in the completed work that differ from the design information shown on the plans. If the Contractor, in the course of the work, finds any discrepancy between the drawings and the physical condition of the locality, or any errors or omissions in the drawings, or in the layout as given by points and instructions, it shall be the Contractor’s duty to inform the Contract Manager in writing, and the Contract Manager will promptly verify the same. Any work done after such discovery, until authorized, will be done at the Contractor’s risk. All drawings, Specifications, and copies thereof furnished by the Contract Manager are the property of the Contract Manager and shall not be reused on other work and, with the exception of the signed Contract sets, are to be returned to the Contract Manager, on request, at the completion of the work. All models are the property of the Contract Manager. The Contractor may be furnished additional instructions and detail drawings by the Project Engineer as necessary to carry out the work required by the Contract Documents.

The additional drawings and instructions thus supplied will become part of the Contract Documents. The Contractor shall carry out the Work in accordance with the additional detail drawings and instructions.

(b) The drawings shall be supplemented by such shop drawings prepared by the Contractor as are necessary to adequately control the work. No changes shall be made by the Contractor in any shop drawings after they have been reviewed by the Contract Manager.

(c) Shop drawings for any structure shall include, but not be limited to: stress sheets, anchor bolt layouts, shop details, and erection plans, which shall be reviewed and accepted by the Contract Manager before any such work is performed.

(d) Contractor agrees that shop drawings processed by the Contract Manager are not Contract Change Orders; that the purpose of shop drawings submitted by the Contractor is to demonstrate to the Contract Manager that the Contractor understands the design concept, that it demonstrates its understanding by indicating which equipment and material it intends to furnish and by detailing the fabrication methods it intends to use.

(e) It is expressly understood, however, that favorable review of the Contractor’s shop drawings shall not relieve the Contractor of any responsibility for accuracy of dimensions and details, or for mutual agreements of dimensions and details. It is mutually agreed that the Contractor shall be responsible for agreement and conformity of its shop drawings with the Specifications. Contractor further agrees that if deviations, discrepancies or conflicts between shop drawings and Specifications are discovered either prior to or after shop drawings are processed by the Contract Manager, the Specifications shall control and shall be followed.

(f) Unless otherwise stated, the Contract Manager shall have thirty (30) days from the date of receipt of shop drawings for review.
Full compensation for furnishing all shop drawings shall be considered as included in the prices paid for the Contract items of work to which such drawings relate and no additional compensation will be allowed therefore. Any cost related to the Contract Manager’s review of any particular set of shop drawings more than twice, due to incompleteness or unacceptability, shall be borne by the Contractor, and the Contract Manager reserves the right to withhold such costs from payments due the Contractor.

When submitted for the Project Engineer’s review, Shop Drawings shall bear the Contractor’s certification that he has reviewed, checked and approved the Shop Drawings and that they are in conformance with the requirements of the Contract Documents.

That portion of the Work requiring a Shop Drawing or sample submission shall not begin until the Shop Drawing or submission has been approved by the Contract Manager. A copy of each approved Shop Drawing and each approved sample shall be kept in good order by the Contractor at the site and shall be available to the Contract Manager.

Acceptance by the Contract Manager of any drawing, method of work, or any information regarding materials and equipment the Contractor proposes to furnish shall not relieve the Contractor of his responsibility for any errors therein and shall not be regarded as an assumption of risks or liability by the Project Engineer or Contract Manager, or any officer or employee thereof, and the Contractor shall have no claim under the Contract on account of the failure or partial failure or inefficiency or insufficiency of any plan or method or work or material and equipment so accepted. Such acceptance shall be considered to mean merely that the Contract Manager has no objection to the Contractor using, upon his own full responsibility, the plan or method of work proposed, or furnishing the materials and equipment proposed.

B-12 Permits and Regulations

Operating permits and licenses necessary for the prosecution of the work by the Contractor shall be secured and paid for by the Contractor, except as noted herein. The Contract Manager has obtained applicable environmental permits which are attached to this document.

The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the work as shown on the plans and described in the Specifications. It shall promptly notify the Contract Manager in writing of any specification at variance therewith and any necessary changes shall be adjusted as provided in the Contract for changes in the work. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, rules, and regulations and without such notice to the Contract Manager, it shall bear all costs arising therefrom.

Permit conditions are included in the appendices of the Specifications.

B-13 Conformity with Contract Documents and Allowable Deviations

Work and materials shall conform to the lines, grades, cross sections, dimensions and material requirements, including tolerances, shown on Contract Documents. Although measurement, sampling, and testing may be considered evidence as to such conformity, the Project Engineer shall be the sole judge as to whether the work or materials deviate from the Specifications and plans, and its decision as to any allowable deviations therefrom shall be final and conclusive.
Whenever a material, article or piece of equipment is identified on the Drawings or Specifications by reference to brand name or catalogue number, it shall be understood that this is referenced for the purpose of defining the performance or other salient requirements and that other products of equal capacities, quality and function shall be considered. The Contractor may recommend the substitution of a material, article, or piece of equipment of equal substance and function for those referred to in the Contract Documents by reference to brand name or catalogue number, and if, in the opinion of the Project Engineer, such material, article, or piece of equipment is of equal substance and function to that specified, the Project Engineer may approve its substitution and use by the Contractor. Any cost differential shall be deductible from the Contract Price and the Contract Documents shall be appropriately modified by Change Order. The Contractor warrants that if substitutes are approved, no major changes in the function or general design of the Project will result. Incidental changes or extra component parts required to accommodate the substitute will be made by the Contractor without a change in the Contract Price or Contract Time.

B-14 Coordination and Interpretation of Contract Documents

(a) The Contract Documents are complementary and a requirement occurring in one is as binding as though occurring in all.

(b) In the event of conflict between the Plans and the Technical Specifications, the Project Engineer shall determine which governs.

(c) Should it appear that the work to be done or any of the matters relative thereto are not sufficiently detailed or explained in the Specifications and plans, the Contractor shall apply to the Project Engineer for such further explanations as may be necessary and shall conform to them as part of the Contract. In the event of any doubt or question arising respecting the true meaning of the Specifications and plans, reference shall be made to the Project Engineer, whose decision thereon shall be final and conclusive.

(d) In the event of any discrepancy between any plans and the figures written thereon, the figures shall be taken as correct. Detailed drawings shall prevail over general drawings.

(e) Any reference made in these Specifications or on the plans to any Specification, standard, method, or publication of any scientific or technical society or other organization shall, in the absence of a specific designation to the contrary, be understood to refer to the Specification, standard, method, or publication in effect as of the date that the work is advertised for Bids.

B-15 Subcontracts

(a) The attention of the Contractor is directed to the provisions of Public Contract Code sections 4100-4113, regarding subcontracting and said provisions are by this reference incorporated herein and made a part hereof.

(b) Each Subcontract shall contain a suitable provision for the suspension or termination thereof should the work be suspended or terminated or should the Subcontractor neglect or fail to conform to every provision of the Contract Documents insofar as such provisions are relevant. No Subcontractor or supplier will be recognized as such, and all persons engaged in work will be considered as employees of the Contractor, and the Contractor will be held responsible for their work, which shall be subject to the provisions of the Contract Documents. The Contractor shall
be fully responsible to the Contract Manager for the acts or omissions of its Subcontractors and of the persons either directly or indirectly employed by him. Nothing contained in the Contract Documents shall create any contractual relationship between any Subcontractor and the Contract Manager. If a legal action, including arbitration and litigation, against the Contract Manager is initiated by a Subcontractor or Supplier, the Contractor shall reimburse the Contract Manager for the amount of legal, engineering and all other expenses incurred by the Contract Manager in defending itself in said action. A copy of each subcontract must be provided to Contract Manager.

(c) The Contract Manager reserves the right to approve all Subcontractors. Such approval shall be a consideration to the awarding of the Contract and unless notification to the contrary is given to the Contractor prior to the signing of the Contract, the list of Subcontractors which is submitted with its proposal will be deemed to be acceptable.

B-16 Cooperation of Contractors

(a) Should construction be under way by other forces or by other Contractors within or adjacent to the limits of the work specified or should work of any other nature be under way by other forces within or adjacent to said limits, the Contractor shall cooperate with all such other Contractors or other forces to the end that any delay or hindrance to their work will be avoided. The right is reserved to perform other or additional work at or near the site (including material sources) at any time, by the use of other forces.

(b) When two or more Contractors are employed on related or adjacent work, each shall conduct its operation in such a manner as not to cause any unnecessary delay or hindrance to the other. Each Contractor shall be responsible to the other for all damage to work, to persons or property caused to the other by its operations, and for loss caused the other due to its unnecessary delays or failure to finish the work within the time specified for completion.

B-17 Superintendence

(a) The Contractor shall designate in writing before starting work an individual as authorized representative who shall have the authority to represent and act for the Contractor. This authorized representative shall be present at the site of the work at all times while work is actually in progress on the Contract. When work is not in progress and during periods when work is suspended, arrangements acceptable to the Contract manager shall be made for any emergency work which may be required.

(b) The Contractor is solely responsible, at all times, for the superintendence of the work and for its safety and progress.

(c) Whenever the Contractor or its authorized representative is not present on any particular part of the work where it may be desired to give direction, orders will be given by the Contract Manager, which shall be received and obeyed by the superintendent or foreman who may have charge of the particular work in reference to which the orders are given.

(d) Any order given by the Contract Manager, not otherwise required by the Specifications to be in writing, will on request of the Contractor, be given or confirmed by the Contract Manager in writing.
B-18 Inspection of Work

(a) Unless otherwise provided, all equipment, materials, and work shall be subject to inspection and testing by the Project Engineer. The Project Engineer will observe the progress and quality of the work and determine, in general, if the work is proceeding in accordance with the intent of the Contract Documents. It shall not be required to make comprehensive or continuous inspections to check the quality of the work, and it shall not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the work. Visits and observations made by the Project Engineer shall not relieve the Contractor of its obligation to conduct comprehensive inspections of the work and to furnish proper materials, labor, equipment and tools, and perform acceptable work, and to provide adequate safety precautions, in conformance with the intent of the Contract.

(b) Whenever the Contractor varies the period during which work is carried on each day, it shall give due notice to the Contract Manager so that proper inspection may be provided. Proper facilities for safe access for inspection to all parts of the work shall at all times be maintained for the necessary use of the Project Engineer and other agents of the Contract Manager, and agents of the Federal, State, or local governments at all reasonable hours for inspection by such agencies to ascertain compliance with laws and regulations.

(c) One or more Project Inspectors may be assigned to observe the work and to act in matters of construction under this Contract. It is understood that inspectors shall have the power to issue instructions and make decisions within the limitations of the authority of the Contract Manager and Project Engineer. Such inspection shall not relieve the Contractor of its obligation to conduct comprehensive inspections of the work, to furnish proper materials, labor, equipment and tools, and perform acceptable work, and to provide adequate safety precautions in conformance with the intent of the Contract.

(d) The Contract Manager and its representatives and the Project Engineer and its representatives shall at all times have access to the work wherever it is in preparation or progress, and the Contractor shall provide safe and convenient facilities for such access and for inspection. If the Specifications, the Project Engineer’s instructions, laws, ordinances, or any public authority require any material, equipment or work to be specifically tested or approved, the Contractor shall give the Project Engineer timely notice of its readiness for inspection, and if the inspection is by an authority other than the Contract Manager, of the time fixed for inspection. Inspections by the Project Engineer will be made promptly and, where practicable, at the source of supply.

(e) Work performed without inspection may be required to be removed and replaced under proper inspection and the entire cost of removal and replacing, including the cost of Contract Manager-furnished materials used in the work, shall be borne by the Contractor, regardless of whether or not the work exposed is found to be defective. Examination of questioned work, other than that installed without inspection, may be ordered by the Project Engineer and, if so ordered, the work must be uncovered by Contractor. If such work is found to be in accordance with the Contract Documents, the Contract Manager will pay the cost of re-examination and replacement. If such work is found to be not in accordance with the Contract Documents, the Contractor shall pay such cost unless it can show that the defect in the work was caused by another Contractor, and in that event the Contract Manager will pay such costs.
The inspection of the work shall not relieve the Contractor of its obligation to fulfill the Contract as herein prescribed, or in any way alter the standard of performance provided by the Contractor, and defective work shall be made good and unusable materials may be rejected, notwithstanding that such work and materials have been previously overlooked by the Project Engineer and accepted or estimated for payment. If the work or any part thereof shall be found defective, Contractor shall, within ten (10) calendar days, make good such defect in a manner satisfactory to the Contract Manager. If the Contractor shall fail or neglect to make ordered repairs of defective work or to remove the condemned materials from the work within ten (10) calendar days after direction by the Contract Manager in writing, the Contract Manager may make the ordered repairs, or remove the condemned materials, and deduct the cost thereof from any monies due the Contractor.

The Contractor shall furnish promptly without additional charge all facilities, labor and materials reasonably needed by the Project Engineer for performing all inspection and tests. Contractor shall be charged with any additional cost of inspection when material and workmanship are not ready at the time specified by the Contractor for its inspection.

Where any part of the work is being done under an encroachment permit or building permit, or is subject to Federal, State, County or Contract Manager codes, laws, ordinances, rules or regulations, representatives of the government agency shall have full access to the work and shall be allowed to make any inspection or tests in accordance with such permits, codes, laws, ordinances, rules, or regulations. If advance notice of the readiness of the work for inspection by the governing agency is required, the Contractor shall furnish such notice to the appropriate agency.

The Project Engineer may inspect the production of the material, or the manufacture of products at the source of supply. Plant inspection, however, will not be undertaken until the Project Engineer is assured of the cooperation and assistance of both the Contractor and the material producer. The Project Engineer or its authorized representative shall have free entry at all times to such parts of the plant as concerns the manufacture or production of the materials. Adequate facilities shall be furnished free of charge to make the necessary inspection. The Contract Manager assumes no obligation to inspect materials at the source of supply.

Forty-eight hours prior to work being accomplished, the Contractor will notify the Contract Manager of the proposed working hours to accomplish the work for that day. Overtime and shift work may be established as a regular procedure by the Contract and with the written permission of the Contract Manager.

Such permission may be revoked at any time. No work other than overtime and shift work established as a regular procedure shall be done between the hours of 6 p.m. and 7 a.m., nor on Saturdays, Sundays, or legal holidays, except such work as is necessary for the proper care and protection of the work already performed or except in case of an emergency.

All costs for the overtime inspection, including those occurring as a result of overtime and shift work established as a regular procedure, shall be paid for by the Contractor. Overtime inspection shall include inspection required during holidays, Saturdays, Sundays, and any weekday between the hours of 6 p.m. and 7 a.m. Such costs will include, but will not necessarily be limited to, engineering, inspection, general supervision and other expenses which are directly chargeable to
the overtime work. All such charges shall be deducted by the Contract Manager from payment due the Contractor.

(k) A pre-final inspection of the Work will be made by the Contract Manager and the Project Engineer. This inspection shall be made as soon as practical after Contractor has notified the Contract Manager in writing that the Work is ready for this inspection. The pre-final inspection shall be made prior to acceptance of any portion of the work as being substantially complete and prior to filing the Notice of Completion.

(l) A final inspection of all the work will be made by the Contract Manager, Project Engineer, and Contractor.

B-19 Tests

The Project Engineer shall witness all tests specified or required by the Technical Specifications. The responsibility for payment for these tests is also outlined in the Technical Specifications. The Project Engineer will require such tests as it deems necessary to determine the quality of work or compliance with Contract Documents. The Contractor shall furnish promptly without additional charge all facilities, labor, and material reasonably required for performing safe and convenient tests as may be required by the Project Engineer. All tests by the Project Engineer will be performed in such a manner as will not unnecessarily delay the work. The Contractor shall not be required to reimburse the Contract Manager for tests performed by the Contract Manager or Project Engineer. If samples of materials are submitted which fail to pass the specified tests, the Contractor shall pay for all subsequent tests.

B-20 Removal of Rejected and Unauthorized Work and Materials

(a) All work or materials which have been rejected shall be remedied, or removed and replaced by the Contractor in an acceptable manner and no compensation will be allowed it for such removal, replacement, or remedial work.

(b) Any work done beyond the lines and grades shown on the plans or established by the Project Engineer or any extra work done without written authority will be considered as unauthorized work and will not be paid for. Upon order of the Contract Manager, unauthorized work shall be remedied, removed, or replaced at the Contractor's expense.

(c) Upon failure of the Contractor to comply with any order of the Contract Manager made under this Section, the Contract Manager may cause rejected or unauthorized work to be remedied, removed or replaced, and may deduct the costs therefore from any monies due or to become due the Contractor.

(d) If following the installation of any equipment furnished hereunder, defects requiring correction by the Contractor are found, the Contract Manager shall have the right to operate such unsatisfactory equipment and make reasonable use thereof until the equipment can be shut down for correction of defects without injury to the Contract Manager.
B-21 Deductions for Uncorrected Work

If the Contract Manager deems it inexpedient to correct work damaged or not done in accordance with the Contract, an equitable deduction from the Contract price shall be made therefore, and such sum may be withheld by Contract Manager from Contractor's payment.

B-22 Equipment

(a) Only equipment suitable to produce the quality of work and materials required will be permitted to operate on the project.

(b) The Contractor shall provide adequate and suitable equipment to meet the above requirements, and when ordered by the Project Engineer, shall remove unsuitable equipment from the work and discontinue the operation of unsatisfactory plants.

(c) The Contractor shall identify each piece of its equipment, other than hand tools, by means of an identifying number plainly stenciled or stamped on the equipment at a conspicuous location, and shall furnish to the Project Engineer a list giving the description of each piece of equipment and its identifying number. In addition, the make, model number and empty gross weight of each unit of compaction equipment shall be plainly stenciled or stenciled in a conspicuous place on the unit. The gross weight shall be either the manufacturer's rated weight or the scale weight.

(d) In the case of termination of this Contract before completion from any cause whatever, the Contractor, if notified to do so by the Contract Manager, shall promptly remove any part or all of its equipment and supplies from the Project Sites. If the Contractor fails to do so, the Contract Manager shall have the right to remove such equipment and supplies at the expense of the Contractor.

B-23 Character of Worker

The Contractor shall employ only competent Subcontractors or skillful workers to do the work. If any Subcontractor, or person employed by the Contractor or any Subcontractor shall fail or refuse to carry out the directions of the Contract Manager, Project Engineer or their representatives or shall appear to the Contract Manager, Project Engineer or their representatives to be incompetent or to act in a disorderly or improper manner, it shall be removed from the project work immediately on the requisition of the Contract Manager or Project Engineer and such person shall not again be employed on the work. Such discharge shall not be the basis for any claim for compensation or damages against the Contract Manager, or any of its officers or agents.

B-24 Separate Contracts

The Contract Manager reserves the right to let other contracts in connection with this work. The Contractor shall afford other Contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate its work with the other Contractor's work.

If any part of the Contractor's work depends for proper execution or results upon the work of any other Contractor, the Contractor shall inspect and promptly report to the Project Engineer any defects in such work that render it unsuitable for such proper execution and results. The Contractor's failure to inspect
and report shall constitute an acceptance of the other Contractor's work as fit and proper for the reception of its work, except as to defects which may develop in the other Contractor's work after the execution of its work.

To insure the proper execution of its subsequent work, the Contractor shall measure work already in place and shall at once report to the Contract Manager any discrepancy between the executed work and the drawings.

The Contract Manager may perform additional Work related to the Project by himself, or he may let other Contracts containing provisions similar to these. The Contractor will afford the other Contractors who are parties to such Contracts (or the Contract Manager or his representatives, if he is performing the additional Work himself), reasonable opportunity for the introduction and storage of materials and equipment and the execution of Work and shall properly connect and coordinate his Work with theirs.

If the performance of additional Work by other Contractors, or the Contract Manager is not noted in the Contract Documents prior to the execution of the Contract, written notice thereof shall be given to the Contractor prior to starting any such additional Work. If the Contractor believes that the performance of such additional Work by the Contract Manager or others involves him in additional expense or entitles him to an extension of the Contract Time, he may make a claim therefore as provided in Section B-7 of this Contract.

B-25 Materials, Services and Facilities

(a) Unless otherwise specifically stated in the Contract Documents, the Contractor shall furnish all materials, labor, tools, equipment, water, light, power, sanitary facilities, transportation, supervision, temporary construction of any nature on all of the facilities necessary for the execution and completion of the work. Unless otherwise specified, all materials shall be new and shall be manufactured, handled, and installed in a workmanlike manner to insure completion of the work in accordance with the Contract Documents. The Contractor shall, upon request of the Contract Manager, furnish satisfactory evidence as to the kind and quality of materials.

(b) Where materials are to be furnished by the Contract Manager, the type, size, quantity and location at which they are available will be stated in the Contract Documents.

(c) Manufacturers' warranties, guarantees, instruction sheets and parts listed, which are furnished with certain articles or materials incorporated in the work, shall be delivered to the Contract Manager before acceptance of the Contract.

Manufactured articles, materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer.

Materials, supplies and equipment shall be in accordance with samples submitted by the Contractor and approved by the Contract Manager.

Materials, supplies or equipment to be incorporated into the Work shall not be purchased by the Contractor or the Subcontractor subject to a chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller.
The completed work shall include all necessary permanent safety devices, such as machinery guards and similar ordinary safety items required by the State and Federal (OSHA) industrial safety authorities and applicable local and national codes. Further, any features of the work subject to such safety regulations shall be fabricated, furnished, and installed in compliance with these requirements. Prior to performing Work specified herein, the Contractor shall request an inspection by a State Industrial Safety representative for the purpose of determining that the facilities provided are in compliance with the State and Federal safety requirements. Any facilities which are deemed necessary by official response following the above safety inspection shall be added or corrected as required as a part of the Contract work. However, no payment will be made to the Contractor for such changes or additions to equipment furnished under this Contract since it is a requirement of these Specifications that such equipment be manufactured or fabricated in such a manner as to be in conformance with all Federal, State, and local safety requirements. The Contractor shall notify all manufacturers, equipment suppliers, and Subcontractors of the provisions of this article.

In approving equipment for installation in the project, the Contract Manager and Project Engineer assume no responsibility for injury or claims resulting from failure of the equipment to comply with applicable National, State, and local safety codes or requirements, or the safety requirements of a recognized agency, or failure due to faulty design concepts, or defective workmanship and materials.

All materials incorporated into the job shall be new, especially purchased for the project unless otherwise specified or agreed in writing. Unless otherwise noted, any equipment offered shall be current modifications which have been in successful regular operation under comparable conditions for a period sufficient to determine the reliability of the product. This time requirement, however, does not apply to minor details nor to thoroughly demonstrated improvements in design or in materials of construction.

Whenever the Contractor shall furnish materials or manufactured articles or shall do work for which no detailed specifications are set forth, the materials or manufactured articles shall be of the best grade in quality and workmanship obtainable in the market from firms of established good reputation, or, if not ordinarily carried in stock, shall conform to the usual standards of first-class materials or articles of the kind required with due consideration of the use to which they are to be put. In general, the work performed shall be in full conformity and harmony with the intent to secure the best standard of construction and equipment of the work as a whole or in part.

### B-26 Storage of Materials

Materials shall be so stored as to ensure the preservation of their quality and fitness for the Work. Materials shall be stored in accordance with all permits (attached).

When considered necessary, they shall be placed on wooden platforms or other hard, clean surfaces, and not on the ground, and they shall be placed under cover. Stored materials shall be located so as to facilitate prompt inspection. Private property shall not be used for storage purposes without the written permission of the owner or lessee.
Because of Permit constraints on use of areas directly adjacent to the constructing project, Contractor shall provide off-site areas for storing equipment and material if he deems such areas as being inadequate to execute the work.

Electrical equipment, devices, and motors shall be placed in dry and warm storage as approved by the Project Engineer.

All equipment and materials which are not to be painted (such as aluminum and stainless steel) and all factory finished or coated equipment and materials which are not to be painted, that are installed prior to completion of adjacent work, shall be completely covered and protected.

Articles or materials to be incorporated in the work shall be stored in such a manner as to insure the preservation of their quality and fitness for the work, and to facilitate inspection.

B-27 Trade Names and Alternatives

For convenience in designation in the Specifications and plans, certain articles or materials to be incorporated in the work may be designated under a trade name or the name of a manufacturer and its catalog information. The use of an alternative article or material which is of equal quality and of the required characteristics for the purpose intended will be permitted, subject to the following requirements:

(a) The burden of proof as to the quality and suitability of alternatives shall be upon the Contractor and it shall furnish all information necessary as required by the Project Engineer. The Project Engineer shall be the sole judge as to the quality and suitability of alternative articles or materials and its decision shall be final.

(b) Whenever the Specifications and Plans permit the substitution of a similar or equivalent material or article, no tests or action relating to the approval of such substitute material or article will be made until the request for substitution is made in writing by the Contractor accompanied by complete data as to the equality of the material or article proposed. Such request by the Contractor must be made within thirty-five (35) days after award of Contract.

B-28 Certificate of Compliance

(a) A Certificate of Compliance shall be furnished prior to the use of any materials on the project, unless otherwise noted in the technical specifications. In addition, when so authorized in the Specifications, the Project Engineer may permit the use of certain materials or assemblies prior to sampling and testing if accompanied by a Certificate of Compliance. The Certificate shall be signed by the manufacturer of the material or the manufacturer of assembled materials and shall state that the materials involved comply in all respects with the requirements of the Contract. A Certificate of Compliance shall be furnished with each lot of material delivered to the work and the lot so certified shall be clearly identified in the Certificate.

(b) All materials used on the basis of a Certificate of Compliance may be sampled and tested at any time. The fact that material is used on the basis of a Certificate of Compliance shall not relieve the Contractor of responsibility for incorporating material in the work which conforms to the requirements of the Contract Documents and any such material not conforming to such requirements will be subject to rejection whether in place or not.
(c) The Contract Manager reserves the right to refuse to permit the use of material on the basis of a Certificate of Compliance.

(d) The form of the Certificate of Compliance and its disposition shall be as directed by the Project Engineer.

B-29 Assignment

The Contractor shall not assign the Contract or sublet it as a whole or in part without the prior written consent of the Contract Manager, nor shall the Contractor assign any monies due, or to become due to it hereafter, without the prior written consent of the Contract Manager.

B-30 Use of Completed Portions, Right to Operate Unsatisfactory Equipment or Facilities

(a) The Contract Manager may, at any time, and from time to time, during the performance of the work, enter the work site for the purpose of installing any necessary work by the Contract Manager’s labor or other contracts, and for any other purpose in connection with the installation of facilities. In doing so, the Contract Manager shall endeavor not to interfere with the Contractor and the Contractor shall not interfere with other work being done by or on behalf of the Contract Manager.

(b) If, prior to completion and final acceptance of all the work, the Contract Manager takes possession of any structure or facility (whether completed or otherwise) comprising a portion of the work with the intent to retain possession thereof (as distinguished from temporary possession contemplating the return to the Contractor), then, while the Contract Manager is in possession of the same, the Contractor shall be relieved of liability for loss or damage to such structure other than that resulting from the Contractor's fault or negligence. Such taking of possession by the Contract Manager's shall not relieve the Contractor from any provisions of this Contract respecting such structure, other than to the extent specified in the preceding sentence, nor constitute a final acceptance of such structure or facility.

(c) If, following installation of any equipment or facilities furnished by the Contractor, defects requiring correction by the Contractor are found, the Contract Manager shall have the right to operate such unsatisfactory equipment or facilities and make reasonable use thereof until the equipment or facilities can be shut down for correction of defects without injury to the Contract Manager.

B-31 Lands for Work, Right-of-Way Construction Roads

(a) The Contract Manager will provide the lands, easements, rights-of-way, and/or encroachment permits necessary or other rights to enter and work on lands necessary for the performance of the work. Other permits and licenses are addressed by sections B-12 and B-54. Should the Contractor find it advantageous to use any additional land for any purpose whatsoever, the Contractor shall provide for the use of such land at their expense. The Contract Manager shall be furnished with a copy of written agreements or otherwise be notified in writing of additional working space which is acquired. Nothing herein contained and nothing marked on the plans shall be interpreted as giving the Contractor exclusive occupancy of the territory provided by the Contract Manager. When two or more contracts are being executed at one time on the same or adjacent land in such a manner that work on one contract may interfere with that on another,
the Contract Manager shall decide which Contractor shall cease work, and which shall continue, or whether the work on both contracts shall progress at the same time and in what manner, and the decision of the Contract Manager shall be final and binding. When the territory of one contract is the necessary or convenient means of access for the performance of another contract, such privilege of access or any other reasonable privilege may be granted by the Contract Manager to the Contractor so desiring, to the extent, amount, in the manner, and at the time permitted. No such decision as to the method or time of conducting the work or the use of territory shall be the basis of any claim for delay or damage.

(b) Lands, easements or rights-of-way to be furnished by the Contract Manager for construction operations will be specifically shown on the Plans.

(c) The Contractor shall maintain all roads necessary to reach the various parts of the work and for the transportation thereto of construction material and personnel. The cost of maintaining such roads shall be borne by the Contractor.

(d) Certain areas of access are limited by permits and require mats or matting for their use. Such mats may be of wood, metal or combination of appropriate geotechnical fabric with gravel overlay. However, at project conclusion all mats must be removed and the surface restored to its original condition. The rocked construction entrances shall remain in place unless noted otherwise on the plans.

B-32 Contract Manager's Right to Audit and Preservation of Records

(a) The Contractor shall maintain books, records and accounts of all costs in accordance with generally accepted accounting principles and practices. The Contract Manager, the Bureau of State Audits, Federal Grantor Agency, Comptroller General of the United States, and their authorized representatives shall have the right to review and copy any records and supporting documentation pertaining to the performance of this agreement and to interview staff related to the performance of this agreement. Furthermore, the Contract Manager or its designated representatives shall have the right to audit the books, records and accounts of the Contractor under any of the following conditions:

(i) The Contract is terminated for any reason in accordance with the provisions of the Contract Documents in order to arrive at equitable termination costs;

(ii) In the event of a disagreement between the Contractor and the Contract Manager over the amount due the Contractor under the terms of the Contract;

(iii) To check or substantiate any amounts invoiced or paid which are required to reflect the costs of the Contractor, or the Contractor's efficiency or effectiveness under this Contract or in connection with extras, changes, claims, additions, back-charges, or others, as may be provided for in this contract; and/or

(iv) If it becomes necessary to determine the Contract Manager's rights and the Contractor's obligations under the Contract or to ascertain facts relative to any claim against the Contractor which may result in a charge against the Contract Manager;

(v) To determine any difference in cost occasioned by a permissible substitution;
(vi) For any other reason in the Contract Manager’s sole judgment.

(b) If any of the conditions stated in paragraph B-32(a) are satisfied, Contractor shall provide the Contract Manager (or its representatives), unlimited, reasonable access during working hours to the Contractor’s books and records under the conditions stated above. The Contract Manager's audit rights shall be liberally construed in the Contract Manager's favor.

(c) The Contractor, from the effective date of final payment, termination hereunder and all other pending matters are closed, shall preserve and make available to the Contract Manager for a period of three (3) years thereafter, at all reasonable times at the office of the Contractor (but without any charge to the Contract Manager), all its books, records, documents, photographs, micro-photographs, and other evidence bearing on the costs and expenses of the Contractor under this Contract and relating to the work hereunder.

(d) The Contract Manager will make all payments required of it under this Contract subject to audit, under circumstances stated above, which audit may be performed at the Contract Manager's option, either during the Contract time period or during the record retention time period. Regardless of authorization, approval or acceptance, signatures or letters which are given by the Contract Manager and are part of the Contract Manager's control systems or are requested by the Contractor, the payments made under this Contract shall not constitute a waiver or agreement by the Contract Manager that it accepts as correct the billings, invoices or other charges on which the payments are based. If the Contract Manager’s audit produces a claim against the Contractor, the Contract Manager may pursue all its legal remedies even though it has made all or part of the payments required by this Contract.

(e) If any audit by the Contract Manager or its representative discloses an underpayment by the Contract Manager pursuant to the terms of the Contract Documents, the Contract Manager shall have the duty to pay any amount found by the audit to be owed to the Contractor. If such audit discloses an overpayment, the Contractor shall have the obligation to reimburse the Contract Manager for the amount of the overpayment. The Contract Manager’s right to claim reimbursement from the Contractor of any overpayment shall not be terminated or waived until three years after the completion of the Contract Manager's audit or upon the termination of audit rights under subparagraph B-32(f), whichever date is later. The obligation of the Contractor to make reimbursements hereunder shall not terminate except as provided by law.

(f) The Contract Manager’s right to audit and the preservation of records shall terminate at the end of three (3) years after the date final payment is made or termination of the Contract. The Contractor shall include this "Right to Audit and Preservation of Records" clause in all subcontracts issued by it shall require the same to be inserted by all lower tier Subcontractors in their subcontracts, for any portion of the work. Should Contractor fail to include this clause in any such contract or lower tier contract, or otherwise fail to insure the Contract Manager's rights hereunder, Contractor shall be liable to the Contract Manager for all costs, expenses and attorney's fees which the Contract Manager may have to incur obtaining or attempting to obtain an audit or inspection of or the restoration of records which otherwise have been available to the Contract Manager from said persons under this clause. Such audit may be conducted by the Contract Manager or its authorized representative.
ARTICLE III. PROGRESS AND COMPLETION OF WORK

B-33 Progress Schedule

The Contractor shall submit to the Contract Manager such schedules of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data, where applicable, as are required by the Contract Documents for the Work to be performed.

Prior to the first partial payment estimate, the Contractor shall submit construction progress schedules showing the order in which it proposes to carry on the Work, including dates at which it will start the various parts of the WORK, estimated date of completion of each part and as applicable:

(a) The dates at which special detail drawings will be required; and

(b) Respective dates for submission of Shop Drawings, the beginning of manufacture, the testing and the installation of materials, supplies, and equipment.

(c) The Contractor shall also submit a schedule of payments that it anticipates it will earn during the course of the Work.

The progress schedules shall be submitted regularly and shall cover a time period satisfactory to the Contract Manager. The Contractor shall also forward to the Contract Manager, with the request for progress payment each month, a summary report of the progress of the various parts of the Work under the Contract in the shops and in the field, stating the existing status, rate of progress, estimated time of completion, and cause of delay, if any. If the work is behind the submitted schedule, the Contractor shall submit in writing a plan acceptable to the Contract Manager for bringing the Work up to schedule.

B-34 Commencement and Progress of the Work and Time of Completion

Prior to the start of construction, the Contract Manager will conduct a preconstruction conference. At the conference, the Contract Manager will review the planned development with the Project Engineer, Contractor, and other interested parties. Items to be reviewed include materials, equipment, rights-of-way, schedules and all arrangements for prosecuting the Work in accordance with the various permits. Funding for this agreement carries with it the requirement for a Labor Compliance Program to assure that the prevailing wage provisions of the Labor Code are being met. The pre-construction conference will also include an overview of fair labor requirements and distribution of documents.

The Contractor shall begin work after receiving a Notice to Proceed and shall diligently prosecute the work to completion.

B-35 Suspension of Work

(a) The Contract Manager may at any time, by notice in writing to the Contractor, suspend any part of the work for such period of time as may be necessary to prevent improper execution of the work on the project by the Contractor, its Subcontractors or agents, and the Contractor shall have no claim for damages or additional compensation on account of any such suspension.

(b) The Contract Manager may at any time suspend any part or all of the work upon ten (10) days written notice to the Contractor, who shall thereupon discontinue all work suspended except for
all operations to prevent loss or damage to work already executed as may be directed by the Contract Manager. In the event a part of the work is suspended, the Contractor, if the suspension is not through its fault or the fault of its Subcontractors or agents, shall be paid on the same basis as Extra Work for costs of work performed in accordance with such orders of the Contract Manager during such suspension, provided that this shall not include any cost pertaining to work not suspended by said notice. Work shall be resumed by the Contractor after such suspension on written notice from the Contract Manager. In the event of suspension of the entire work by the Contract Manager, the Contractor, if the suspension is not through fault of the Contractor or the fault of its Subcontractors or agents, shall be paid the sum of $0 for each calendar day during which the entire work shall have been suspended. Said sum is hereby mutually agreed upon as fixed and liquidated damages in full settlement of all costs and expenses, losses and damages resulting to the Contractor from such suspension. Work shall be resumed by the Contractor after such suspension on written notice from the Contract Manager.

(c) In the event of any suspension of the work in whole or in part under subsection (b) above, the Contractor shall be entitled to an extension of time wherein to complete the work to the extent of the delay caused the Contractor thereby, except where such extension of time would violate project permits.

(d) In the event the entire work shall be suspended by order of the Contract Manager, as hereinabove provided, and shall remain so suspended for a period of sixty (60) consecutive days, through no fault of the Contractor, and notice to resume the work shall not have been served on the Contractor as hereinabove provided, Contractor may, at its option, by written notice to the Contract Manager, terminate the Contract in the same manner as if the termination had been initiated by the Contract Manager, and the Contract Manager shall have no claim for damages because of such termination of the Contract.

(e) If, through no act or fault of the Contractor, the Work is suspended for a period of more than ninety (90) days by the Contract Manager or under an order of Court or other public authority, or the Contract Manager fails to act on any request for payment within sixty (60) days after it is submitted, or the Contract Manager fails to pay the Contractor substantially the sum approved by the Contract Manager or any final award by arbitration or litigation within sixty (60) days of its approval and presentation, then the Contractor may, after ten (10) days from delivery of a written notice to the Contract Manager and the Contract Manager, terminate the Contract and recover from the Contract Manager payment for all Work executed and all expenses sustained.

In addition and in lieu of terminating the Contract, if the Contract Manager has failed to act on a request for payment or if the Contract Manager has failed to make any payment as aforesaid, the Contractor may upon ten (10) days written notice to the Contract Manager stop the Work until he has been paid all amounts then due, in which event and upon resumption of the Work, Change Orders shall be issued for adjusting the Contract Price or extending the Contract Time or both to compensate for the costs and delays attributable to the stoppage of the Work.

If the performance of all or any portion of the Work is suspended, delayed, or interrupted as a result of a failure of the Contract Manager to act within the time specified in the Contract Documents, or if no time is specified, within a reasonable time, an adjustment in the Contract Price or an extension of the Contract Time, or both, shall be made by Change Order to compensate the Contractor for the costs and delays necessarily caused by the failure of the Contract Manager.
If the Contractor intends to file a claim for additional compensation for a delay caused by the Contract Manager at a particular time, he shall file a Notice of Claim with the Contract Manager within 7 days of the beginning of the occurrence. The Notice of Claim shall be in duplicate, in writing, and shall state the circumstances and the reasons for the Claim, but need not state the amount. No Claim for additional compensation will be considered unless a Notice of Claim has been filed with the Contract Manager within the time and in the manner stated above. Contractor's failure to file a claim shall constitute a waiver.

**B-36 Termination For Default - Damages For Delay - Timely Extension**

(a) The Contractor shall at all times employ such force, plant, materials, and tools as will be sufficient, in the opinion of the Contract Manager, to prosecute the work at not less than the rates fixed under the terms of the Contract and to complete the work or any part thereof within the time limits fixed therein. If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with such diligence as will ensure the completion within the time specified in the Contract, or any extension thereof, or fails to complete said work within such time, the Contract Manager may, after giving ten (10) days written notice to the Contractor, terminate its right to proceed with the work or such part of the work as to which there has been delay.

(b) The Contractor’s right to proceed shall not be so terminated nor the Contractor charged with resulting damage if:

   (i) The delay in the completion of the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to Acts of God, acts of the public enemy, acts of the Contract Manager, acts of another Contractor in the performance of a Contract with the Contract Manager, fires, floods, excluding site flooding due to groundwater, levee failure, epidemics, quarantine restrictions, unusually severe weather, as determined by the Project Engineer; and

   (ii) The Contractor shall, within 48 hours of the start of the occurrence, give notice to the Contract Manager of the cause of the potential delay and an estimate of the possible time extension involved. The Contractor, within seven (7) days from the beginning of any such delay (unless the Project Engineer grants further period of time before the date of final payment under the Contract), notifies the Project Engineer in writing of the causes of delay and requests an extension of time.

The Contract Manager shall ascertain the facts and the extent of the delay and extend the time for completing the work when, in its judgment, the findings of fact justify such an extension, and its findings of fact shall be final and conclusive on the parties.

(c) A request for an extension of time, or the granting of an extension of time, shall not constitute a basis for any claim against the Contract Manager for additional compensation or damages unless caused by the Contract Manager or another Contractor employed by the Contract Manager.

(d) If the Contractor should be adjudged bankrupt, or if it should make a general assignment for the benefit of its creditors, or if a receiver should be appointed for the Contractor on account of its insolvency and not be discharged within ten (10) days after its appointment, or if the Contractor should fail to make prompt payments to Subcontractors or suppliers, or should it persistently
disregard laws, ordinances, or the instructions of the Contract Manager, or otherwise commit a substantial violation of any provisions of the Contract, the Contract Manager may, after giving ten (10) days written notice to the Contractor, terminate the Contract and the Contractor's right to proceed with the work.

(e) No extension of time will be considered for time lost due to weather conditions normal to the area. Unusual weather conditions, if determined by the Contract Manager to be of a severity that could not be predicted, may be considered as cause for an extension of Contract completion time.

(f) Delays in delivery of equipment or material purchased by the Contractor or his Subcontractors shall not be considered as a just cause for delay. The Contractor shall be fully responsible for the timely ordering, scheduling, expediting delivery, and installation of all equipment and materials.

(g) The rights and remedies of the Contract Manager provided in this section are in addition to any of the rights and remedies provided by law or under this Contract.

(h) In addition to the Contract Manager's rights under this section, if at any time before completion of the work under the Contract, it shall be determined by the Contract Manager that reasons beyond the control of the parties hereto render it impossible or against the interests of the Contract Manager to complete the work, or if the work shall be stopped by an injunction of a court of competent jurisdiction or by order of any competent authority, the Contract Manager may, upon ten (10) days written notice to the Contractor, discontinue the work and terminate the Contract. Upon service of such notice of termination, the Contractor shall discontinue the work in such manner, sequence, and at such times as the Contract Manager may direct. The Contractor shall have no claim for damages for such discontinuance or termination, nor any claim for anticipated profits on the work thus dispensed with, nor any other claim except for the work actually performed up to the time of discontinuance, including any extra work ordered by the Contract Manager to be done.

B-37 Rights of Contract Manager Upon Termination

(a) In the event the right of the Contractor to proceed with the work, or any portion thereof, has been terminated because of the fault of the Contractor and the Contractor has been given ten (10) days' notice to cure such fault and has not done so, the Contract Manager may take over the work and prosecute the same to completion by contract or any other method the Contract Manager deems expedient, and may take possession of and utilize in completing the work such materials, appliances, equipment and plant as may be on the site of the work and necessary therefore. Whether or not the Contractor's right to proceed with the work is terminated, it and its sureties shall be liable for all damages including costs of managerial and administrative services, engineering, legal and other consultant fees, sustained or incurred by the Contract Manager in enforcing the provisions of Section B-37 and in completing or causing to complete the Contract work.

(b) Upon termination the Contractor shall not be entitled to receive any further payment until the work is finished. If upon completion of the work the total cost to the Contract Manager, including engineering, legal and other consultant fees, costs of managerial and administrative services, construction costs, and liquidated damages shall be less than the amount which would have
be paid if the work had been completed by the Contractor in accordance with the terms of the Contract, then the difference shall be paid to the Contractor in the same manner as the final payment under the Contract. If the total cost incurred by the Contract Manager on account of termination of the Contract and subsequent completion of the work by the Contract Manager by whatever method the Contract Manager may deem expedient shall exceed said amount which the Contractor would otherwise have been paid, the Contractor and its sureties shall be liable to the Contract Manager for the full amount of such excess expense.

(c) The rights and remedies of the Contract Manager provided in this section are in addition to any of the rights and remedies provided by the law or under this Contract.

B-38 Failure to Complete the Work in the Time Agreed Upon - Liquidated Damages

(a) Liquidated Damages - It is agreed by the parties to the Contract that time is of the essence; and that in case all the work is not completed before or upon the expiration of the time limit as set in the Bid, Contract and Progress Schedule, or within any time extensions that may have been granted, damage will be sustained by the Contract Manager; and that it may be impracticable to determine the actual amount of damage by reason of such delay; and it is, therefore, agreed that the Contractor shall pay to the Contract Manager as damages the amount of $1,500.00 per day for each and every day’s delay in finishing all ground disturbing activities and final stabilization (seeding and mulching) beyond September 30, 2017. The contractor shall have until October 14, 2017 for complete demobilization and cleanup. Delays beyond this date may result in additional damages in the amount of $1,500.00 per day for each and every day not completed. The parties expressly agree that this liquidated damage clause is reasonable under the circumstances existing at the time the Contract was made. The Contract Manager shall have the right to deduct the amount of liquidated damages from any money due or to become due the Contractor.

(b) In addition, the Contract Manager shall have the right to charge to the Contractor and to deduct from the final or progress payments for the work the actual cost to the Contract Manager of legal, engineering, inspection, superintendence, and other expenses, which are directly chargeable to the Contract and which accrue during the period of such delay, except that the cost of final inspection and preparation of the final estimate shall not be included in the charges.

(c) Exclusions - Notwithstanding the provisions of subsection (a), the Contractor shall not be liable for liquidated damages or delays caused by the removal or relocation of utilities when such removal or relocation is the responsibility of the Contract Manager or the owner of the utility under Government Code Section 4215.

B-39 Clean-up

During the progress of the work, the Contractor shall maintain the site and related structures and equipment in a clean, orderly condition and free from unsightly accumulation of rubbish, litter, or trash. The Contractor shall ensure that its workers do not litter the site with cigarette butts, paper, bottles, cans, or other litter. Upon completion of work and before the final estimate is submitted, the Contractor shall at its own cost and expense remove from the vicinity of the work all rubbish, unused work materials, concrete forms, and temporary bridging and other like materials, belonging to it or used under its direction during the construction, and in the event of its failure to do so, the same may be removed by the Contract Manager after ten (10) calendar days’ notice to the Contractor, such removal
to be at the expense of the Contractor. Where the construction has crossed yards or driveways, they shall be restored by the Contractor to the complete satisfaction of the Contract Manager, at the Contractor's expense.
ARTICLE IV. LEGAL RELATIONS AND RESPONSIBILITY

B-40 Compliance with Laws - Permits, Regulations, Taxes

Contractor is an independent Contractor and shall at its sole cost and expense comply with all laws, rules, ordinances and regulations of all governing bodies having jurisdiction over the work, obtain all necessary operating permits (excluding environmental permits) and licenses therefore, pay all manufacturers’ taxes, sales taxes, use taxes, processing taxes, and all Federal and state taxes, insurance and contributions for social security and unemployment which are measured by wages, salaries or any remuneration paid to Contractor’s employees, whether levied under existing or subsequently enacted laws, rules or regulations. Contractor shall also pay all property tax assessments on materials or equipment used until acceptance by the Contract Manager. If any discrepancy or inconsistency is discovered in the Plans or Specifications, or in this Contract in relation to any such law, rule, ordinance, regulation, order or decree, the Contractor shall forthwith report the same to the Contract Manager in writing. It shall also protect and indemnify the Contract Manager, the Project Engineer, and all of the Contract Manager’s officers, agents, and servants against any claim or liability arising from or based upon the violation of any such law, rule, ordinance, regulation, order or decree, whether by the Contractor itself or by its employees. Particular attention is called to the following:

(a) Without limitation, materials furnished and performance by Contractor hereunder shall comply with Safety Orders of the Division of Industrial Safety, State of California, Federal Safety regulations of the Bureau of Labor, Department of Labor; and any other applicable Federal regulations.

(b) The Contractor, upon request, shall furnish evidence satisfactory to the Contract Manager and Project Engineer that any or all of the foregoing obligations have been or are being fulfilled. The Contractor warrants to the Contract Manager that it is licensed by all applicable governmental bodies to perform this Contract and will remain so licensed throughout the progress of the work, and that it has, and will have, throughout the progress of the work, the necessary experience, skill and financial resources to enable it to perform this Contract.

(c) Environmental permits will be provided to the Contractor. The permit conditions have been included in the appendices of these specifications.

B-41 Prevailing Wage

(a) This is a Public Works Project funded with CA State and Federal funds. Therefore CA State and Federal prevailing wage rates will be required on this project.

(b) In accordance with the provisions of section 1720 et seq. of the Labor Code, the Division of Labor Standards and Research has determined the general prevailing rates or wages and employer payments for health and welfare, pension, vacation, travel time, and subsistence pay as provided for in section 1773.8. Prior to each pay period, the Contractor shall review the General Prevailing Wage Rates applicable to this project and verify that the correct wage rates are being paid. The most current wage rates are available from the California Department of Industrial Relations’ Internet web site at http://www.dir.ca.gov/DLSR/PWD.
(c) It is mandatory upon the Contractor herein and upon any Subcontractor to pay not less than the said specified rates to all laborers, workers and mechanics employed by them in the execution of the Agreement pursuant to CA Labor Code 1774.

(d) Attention is directed to the provisions in section 1777.5 and sections 1777.6 of the Labor Code concerning the requirement to employ apprentices by the Contractor or any Subcontractor under it.

(e) The Contractor shall comply with and shall cause his Subcontractors to comply with all laws and regulations governing the Contractor’s and Subcontractor’s performance on this project including, but not limited to: anti-discrimination laws, workers’ compensation laws, and prevailing wage laws as set forth in CA Labor Code, Sections 1720-1861 et seq. and licensing laws, as well as Federal Labor Standards set forth in the Davis-Bacon Act (40 USC 276(a-a5), the Copeland “Anti-Kickback” Act (40 USC 276(c); and the Contract Work Hours and Safety Standards Act (CWHSSA) (40 USC 327-333). The Contractor is required to include the prevailing wage language in all subcontracts pursuant to CA Labor Code 1775(E)(b)(1). The Contractor shall post, at appropriate conspicuous points on the site of the Project, a schedule showing all the determined general prevailing wage rates.

(f) The Contractor agrees to comply with Labor Code Section 1775 (Payment of the Prevailing Wage Rates) and Labor Code 1776 (keeping accurate records) and Labor Code 1777.5, placing responsibility for compliance with the statutory requirements for all apprenticeable occupations on the prime Contractor. The Contractor shall comply with the requirements imposed by the California Labor Code Sections 1720 through 1861 regarding public works projects and prevailing wage laws and sections 16000-16800 of the CA Code of Regulations.

(g) Each worker needed to execute the work must be paid travel and subsistence payments as defined in the applicable collective bargaining agreements filed in accordance with Labor Code Section 1773.8.

(h) Holiday and overtime work when permitted by law shall be paid for at a rate of at least one and one-half times the above specified rate of per diem wages, unless otherwise specified.

(i) The Contractor shall forfeit as penalty to the Contract Manager the sum of fifty dollars ($50) for each calendar day or portion thereof for each worker (whether employed by the Contractor or Subcontractor) for violating the following labor codes; CA Labor Code 1813 for overtime, 1775 for underpayment of the prevailing wage, and 1776 for inaccurate or incomplete payroll records. Contractor must also pay each worker the difference between the applicable prevailing wage rate and the amount actually paid to that worker.

(j) Per Labor Code Section 1776, the Contractor and Subcontractors shall maintain and furnish to the RCD’s Labor Compliance Officer at designated times, a certified copy of each weekly payroll containing a statement of compliance signed under the penalty of perjury. The Contract Manager will audit payroll records to verify compliance and will withhold contract payments when payroll records are delinquent or inadequate. Withheld contract payments shall be equal to the amount of underpayment and applicable penalties when, after investigation, it is established that underpayment has occurred.
B-42 Labor Discrimination and Labor Compliance

Attention is directed to Section 1735 of the Labor Code, which reads as follows:

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

(a) Pursuant to Labor Code section 1771.4, the Contract for this Project, if awarded on or after January 15, 2015, is subject to compliance monitoring and enforcement by the California Department of Industrial Relations.

(b) On each job site that is subject to compliance monitoring and enforcement by the Department of Industrial Relations under this subchapter, the prime Contractor shall post a Notice containing the following language:

(c) “This public works project is subject to monitoring and investigative activities by the Compliance Monitoring Unit (CMU) of the Division of Labor Standards Enforcement, Department of Industrial Relations, State of California. This Notice is intended to provide information to all workers employed in the execution of the contract for public work and to all Contractors and other persons having access to the job site to enable the CMU to ensure compliance with and enforcement of prevailing wage laws on public works projects.

(d) “The prevailing wage laws require that all workers be paid at least the minimum hourly wage as determined by the Director of Industrial Relations for the specific classification (or type of work) performed by workers on the project. These rates are listed on a separate job site posting of minimum prevailing rates required to be maintained by the public entity which awarded the public works contract. Complaints concerning nonpayment of the required minimum wage rates to workers on this project may be filed with the CMU at any office of the Division of Labor Standards Enforcement (DLSE).

(e) Local Office Telephone Number: 1-844-522-6734

(f) “Complaints should be filed in writing immediately upon discovery of any violations of the prevailing wage laws due to the short period of time following the completion of the project that the CMU may take legal action against those responsible.

(g) “Complaints should contain details about the violations alleged (for example, wrong rate paid, not all hours paid, overtime rate not paid for hours worked in excess of 8 per day or 40 per week, etc.) as well as the name of the employer, the public entity which awarded the public works contract, and the location and name of the project.

(h) “For general information concerning the prevailing wage laws and how to file a complaint concerning any violation of these prevailing wage laws, you may contact any DLSE office.
Complaint forms are also available at the Department of Industrial Relations website found at www.dir.ca.gov/dlse/PublicWorks.html.”

**B-43  Davis/Bacon Prevailing Wages**

The Davis-Bacon Act (40 USC, Chapter 3, Section 276a- 276a-5; and 29 CFR Parts 1, 3, 5, 6 and 7) is triggered when any construction work over $2,000 is financed in whole or in part with CDBG funds. It requires that workers receive no less than the prevailing wages being paid for similar work in the same area.

**B-44  Minority/Women Business Enterprise Federal Regulatory Requirements (24 CFR 85.36(e))**

The Contractor shall take all necessary affirmative steps to assure minority firms, women’s business enterprises, and labor surplus area firms are used when possible. If subcontractors are to be let, affirmative action steps shall include the following:

(a) Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;

(b) Assuring that small and minority businesses and women’s business enterprises are solicited whenever there are potential sources;

(c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women’s business enterprises;

(d) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women’s business enterprises; and

(e) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

**B-45  The Copeland Anti-Kickback Act (40 USC, Chapter 3, Section 276c and 18 USC, Part 1, Chapter 41, Section 874; and 29 CFR Part 3)**

All workers shall be paid weekly, that deductions from workers’ pay be permissible, and that contractors maintain and submit weekly payrolls.

**B-46  The Contract Work Hours and Safety Standards Act (40 USC, Chapter 5, Sections 326- 332; and 29 CFR Part 4, 5, 6 and 8; 29 CFR Part 70 to 240)**

For contracts over $100,000 and requires that workers receive overtime compensation (time and one-half pay) for hours they have worked in excess of 40 hours in one week. Violations under this Act carry a liquidated damages penalty ($10 per day per violation).

**B-47  Compliance with Clean Air Act and Clean Water Act**

Contractor shall comply with all applicable standards, orders and requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)).
(f) Contractor shall comply with all applicable standards, orders and requirements issued under Section 508 of the Clean Water Act (33 U.S.C. 1368).

(g) Contractor shall comply with Executive Order 11738 and Environmental Protection Agency regulations (40 CFR Part 15).


The Contractor shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163,89 Stat. 871).

B-49 Requirements and Regulations Pertaining to Data, Patent Rights and Copyrights

All work created under this Contract shall be owned by the Northcoast Regional Land Trust and shall not be subject to copyright protection. The rights to any invention which is developed in the course of this Contract shall be the property of the Northcoast Regional Land Trust. The Northcoast Regional Land Trust shall have the right to use photos, videography, or other documentation of Contractor's work and its employees for public information and advertising purposes.

B-48 Compliance with Executive Order 11246, “Equal Employment Opportunity”

During the performance of this Contract, the Contractor agrees as follows:

(a) The Contractor with comply with Executive Order 11246 of September 24, 1965 entitled Equal Employment Opportunity as amended by Executive Order 11375 of October 1967 as supplemented in Department of Labor regulations (41 CFR chapter 60).

(b) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to insure that applicants are employed and that employees are treated equally during employment, without regard to race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment upgrading, demotion, transfer, recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City Setting forth the provisions of this nondiscrimination clause.

(c) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, sex, or national origin.

(d) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
(e) The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No.11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No.11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Contractor shall file, and shall cause each of his subcontractors to file, Compliance Reports with the contracting agency or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the contractor and each subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.

(h) Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of this Order, or any preceding similar Executive order, and in that event to submit, on behalf of themselves and their proposed subcontractors, Compliance Reports prior to or as an initial part of their bid or negotiation of a contract.

(i) Whenever the Contractor or subcontractor has a collective bargaining agreement or other Contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the Compliance Report shall include such information as to such labor union's or agency's practices and policies affecting compliance as the Secretary of Labor may prescribe: Provided, That to the extent such information is within the exclusive possession of a labor union or an agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify to the Secretary of Labor as part of its Compliance Report and shall set forth what efforts he has made to obtain such information.

(j) The Secretary of Labor may direct that any bidder or prospective contractor or subcontractor shall submit, as part of his Compliance Report, a statement in writing, signed by an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other training, with which the bidder or prospective contractor deals, with supporting information, to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, religion, sex or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the order. In the event that the union or the agency shall refuse to execute such a statement, the Compliance Report shall so certify and set forth what efforts have been
made to secure such a statement and such additional factual material as the Secretary of Labor may require.

(k) The Contractor will cause the foregoing provisions to be inserted in all subcontracts for work covered by this Agreement so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

B-49 Eight-Hour Day Limitation

(a) In accordance with the provisions of the Labor Code, and in particular, Sections 1810 to 1815 thereof, inclusive, eight hours labor shall constitute a day's work, and no worker, in the employ of said Contractor, or any Subcontractor, doing or contracting to do any part of the work contemplated by this Contract, shall be required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of those provisions; provided that subject to Labor Code Section 1815, a worker may perform work in excess of either eight (8) hours per day or forty (40) hours during any one week upon compensation for all hours worked in excess of eight (8) hours per day or forty (40) hours during any one week at not less than the rate of compensation required by Labor Code Section 1815.

(b) The Contractor and each Subcontractor shall also keep an accurate record showing the names, addresses, social security numbers, work classifications, 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 the Contractor and by the Subcontractor in connection with the work specified herein, which record shall be open at all reasonable hours to the inspection of the Contract Manager, State and Federal officers and agents; and it is hereby further agreed that, except as provided in (a) above, the Contractor shall forfeit as a penalty to the Contract Manager the sum of fifty dollars ($50) for each worker employed in the performance of this Contract by it or by any Subcontractor under it for each calendar day during which such worker is required or permitted to labor more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of Sections 1810 through 1815.

B-50 Compliance with State Requirements for Employment of Apprentices

The Contractor’s attention is directed to Section 1777.5 through 1777.2 of the Labor Code; provisions of those Sections pertaining to employment of registered apprentices are hereby incorporated by reference into these Specifications. As applicable, the Contractor or any Subcontractor employed by it in the performance of the Contract work shall take such actions as necessary to comply with the provisions of Section 1777.5.

B-51 Underground Utilities

In accordance with Government Code Section 4215, the Contractor shall be compensated for the costs of locating, repairing damage not due to the failure of the Contractor to exercise reasonable care, and removing or relocating existing main or trunkline utility facilities not indicated in the Contract Plans and Specifications with reasonable accuracy, and for the equipment on the project necessarily idled during such work; provided that the Contractor shall first notify the Project Engineer before commencing work on locating, repairing damage to, removing or relocating such utilities.
B-52  Water Pollution

The Contractor shall exercise every reasonable precaution to protect streams, lakes, reservoirs, and canals from pollution with fuels, oils, bitumens, calcium chloride, and other harmful materials and shall conduct and schedule its operations so as to avoid or minimize muddying and silting of said streams, lakes, reservoirs, and canals. Care shall be exercised to preserve vegetation beyond the limits of construction disturbance. The Contractor shall comply with Section 5650 of the California Fish and Wildlife Code and all other applicable statutes and regulations relating to the prevention and abatement of water pollution.

B-53  Payment of Taxes

The Contract prices paid for the work shall include full compensation for all taxes which the Contractor is required to pay, whether imposed by Federal, State, or local governments.

B-54  Permits and Licenses

Except as otherwise provided in this Contract, the Contractor shall procure all operating permits and licenses (excluding environmental permits), pay all charges and fees, and give all notices necessary and incident to the lawful prosecution of the work.

B-55  Patents

The Contractor shall pay all applicable royalties and license fees and assume all costs arising from the use of patented materials, equipment and devices. The Contractor shall defend all suits or claims for infringement of any patent rights and save the Contract Manager, and Project Engineer and their duly authorized representatives harmless from loss on account thereof, except that the Contract Manager shall be responsible for any such loss when a particular process, design, or the product of a particular manufacturer or manufacturers is specified; however if the Contractor has reason to believe that the design, process or product specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information to the Contract Manager.

B-56  Public Convenience

(a) This section defines the Contractor’s responsibility with regard to convenience of the public and public traffic in connection with its operations.

(b) The Contractor shall so conduct its operations as to offer the least possible obstruction and inconvenience to the public and it shall have under construction no greater length or amount of work than it can prosecute properly with due regard to the rights of the public.

(c) Unless otherwise provided in the Contract Documents, all public traffic shall be permitted to pass through the work with as little inconvenience and delay as possible.

(d) Spillage resulting from hauling operations along or across any publicly traveled way shall be removed immediately by the Contractor at its expense.

(e) Construction operations shall be conducted in such a manner as to cause as little inconvenience as possible to abutting property owners.
PART 3 CONDITIONS OF THE CONTRACT

B-57  Safety

(a)  General - The Contractor shall be solely and completely responsible for the conditions of the job site, including safety of all persons and property during performance of the work. This requirement shall apply continuously and not be limited to normal working hours. Safety provisions shall conform to all applicable Federal, State, and local laws, ordinances, and codes, and to the rules and regulations established by the California Division of Industrial Safety, and to other rules of law applicable to the work.

(b)  The services of the Project Engineer in conducting construction review of the Contractor’s performance is not intended to include review of the adequacy of the Contractor’s work methods, equipment, bracing or scaffolding or safety measures, in, on, or near the construction site, and shall not be construed as supervision of the actual construction nor make the Contract Manager responsible for providing a safe place for the performance of work by the Contractor, Subcontractors, or suppliers; or for access, visits, use work, travel or occupancy by any person.

(c)  The Contractor shall carefully instruct all personnel working in potentially hazardous work areas as to the potential dangers and shall provide such necessary safety equipment and instruction as is necessary to prevent injury and damage to property. The Contractor shall appoint for the duration of this Contract, a qualified supervisor employee to develop and/or supervise the Contractor’s job safety program that will effectively implement the safety provisions of the above agencies.

(d)  The Contractor, as a part of his safety program, shall maintain at its office or other well-known place at the job site, safety equipment applicable to the Work as prescribed by the
aforementioned authorities, all articles necessary for giving first aid to the injured, and shall establish the procedure for the immediate removal to a hospital or a doctor's care of persons (including employees) who may be injured on the job site.

(e) If death or serious injuries or serious damages are caused, the accident shall be reported immediately by telephone or messenger to the Contract Manager and to all authorities the Contractor is required to report to. In addition, the Contractor must promptly report in writing to the Contract Manager all accidents whatsoever arising out of, or in connection with, the performance of the Work whether on, or adjacent to, the site, giving full details and statements of witnesses.

(f) If any claim is made by anyone against the Contractor or any Subcontractor on account of any accident, the Contractor shall promptly report the facts in writing to the Contract Manager, giving full details of the claim.

(g) All work and materials shall be in strict accordance with all applicable State, Federal and local laws, rules, regulations, and codes.

(h) Nothing in this Contract is to be construed to permit work not conforming to governing law. When Contract Documents differ from governing law, the Contractor shall furnish and install the higher standards called for without extra charge. All equipment furnished shall be grounded and provided with guards and protection as required by safety codes. Where vapor-tight or explosion-proof electrical installation is required by law, this shall be provided.

(i) Shoring and Trench Safety Plan - Attention is directed to Section 832 of the Civil Code of the State of California relating to lateral and subjacent support, and the Contractor shall comply with this law. This is a requirement of the Contractor and by submitting to the Contract Manager or their representative, does not relieve the Contractor of their responsibility for all aspects of site safety.

(j) Trenching and Worker Protection - In accordance with Section 6705 of the State Labor Code, the Contractor shall submit to the Contract Manager specific plans to show details of provisions for worker protection from caving ground.

(k) Hazardous Wastes and Unforeseen Conditions - In accordance with Section 7104 of the State Public Contract Code, if the work contemplated hereunder involves digging trenches or other excavations that extend deeper than four feet below the surface, the Contractor shall promptly, and before the following conditions are disturbed, notify the Contract Manager, in writing, of any: (i) material that the Contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law; (ii) Subsurface or latent physical conditions at the site differing from those indicated; or (iii) unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract. The Contract Manager shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the Contractor's cost of, or the time required for, performance of any part of the Work shall issue a change order under the procedures described herein. In the event that a dispute arises between the Contract Manager and the Contractor whether the conditions materially differ, or involve
hazardous waste, or cause a decrease or increase in the Contractor’s cost of, or time required for, performance of any part of the Work, the Contractor shall not be excused from any scheduled completion date provided for herein, but shall proceed with all Work to be performed hereunder. The Contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the Contract Manager and Contractor.

(l) The Contractor shall perform all Work in a fire-safe manner. He shall supply and maintain onsite adequate firefighting equipment capable of extinguishing incipient fires. The Contractor shall comply with applicable federal, state, and local fire prevention regulations and where the regulations do not cover, with applicable parts of the National Fire Prevention Standard for "Safeguarding Building Construction Operations," (NFPA No. 241).

B-58 Protection of Person and Property

(a) The Contractor shall take whatever precautions are necessary to prevent damage to all existing improvements, including above ground and underground utilities, trees, shrubbery that is not specifically shown to be removed, fences, signs, mailboxes, survey markers and monuments, buildings, structures, the Contract Manager's property, adjacent property, and any other improvements or facilities within or adjacent to the work. If such improvements or property are injured or damaged by reason of the Contractor's operations, they shall be replaced or restored, at the Contractor's expense, to a condition at least as good as the condition they were in prior to the start of the Contractor's operations.

(b) The Contractor shall adopt all practical means to minimize interference to traffic and public inconvenience, discomfort or damage. The Contractor shall protect against injury any pipes, conduits or other structures, crossing the trenching or encountered in the work and shall be responsible for any injury done to such pipes or structures, or damage to property resulting therefrom. The Contractor shall support or replace any such structures without delay and without any additional compensation to the entire satisfaction of the Contract Manager. All obstructions to traffic shall be guarded by barriers illuminated at night. The Contractor shall be responsible for all damage to persons and property directly or indirectly caused by its operations and, under all circumstances, the Contractor must comply with the laws and regulations of the County and the State of California relative to safety of persons and property and the interruption of traffic and the convenience of the public within the respective jurisdictions.

(c) The Contractor is cautioned that it must replace all improvements in rights-of-way and within the public streets to a condition equal to what existed prior to the Contractor's entry onto the job.

(d) Type and time of construction required at any road subject to interference by Contract work will be determined by those authorities responsible for maintenance of said road. It shall be the responsibility of the Contractor to determine the nature and extent of all such requirements, including provision of temporary detours as required; however, the construction right-of-way obtained by the Contract Manager at affected roadways will be adequate for provision of all required detours. As required at any road crossing, the Contractor shall provide all necessary flagpersons, guardrails, barricades, signals, warning signs and lighting to provide for the safety of existing roads and detours. Immediately after the need for temporary detours ceases, or when directed, the Contractor shall remove such detours and perform all necessary cleanup work,
including replacement of fences, and removal of pavement. Included shall be all necessary replacement of existing roadway appurtenances, grading work, soil stabilization and dust control measures, as required and directed. The cost of all work specified under this Section shall be borne by the Contractor.

(e) The Contractor shall examine all bridges, culverts, and other structures over which it will move its materials and equipment, and before using them, it shall properly strengthen such structures where necessary. The Contractor shall be responsible for any and all injury or damage to such structures caused by reason of its operations.

**B-59 Responsibility for Repair of Facilities**

All public or private facilities, including but not limited to structures, telephone cables, roadways, parking lots, private drives, levees and embankments disturbed during construction of the work shall be repaired and/or replaced by the Contractor to match facilities existing prior to construction. In addition, the Contractor shall be responsible for any settlement damage to such facilities or adjoining areas for a period of one year after acceptance of such required facilities.

The Contractor's attention is directed to the many water services and sewer laterals crossing the road. It is the Contractor's responsibility to protect these laterals and repair damage. Contract Manager crews are not available to repair water services disturbed by construction.

**B-60 Resolution of Construction Claims**

(a) For any claim arising under this contract, the following procedures will apply:

(i) The claim must be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the day of final payment. Nothing in this subsection is intended to extend the time limit or supersede notice requirements for the filing of claims as set forth elsewhere in this contract.

(ii) The Contractor shall proceed with the work in accordance with the plans and specifications and determinations and instructions of the Contract Manager during the resolution of any claims disputes.

**B-61 Contract Manager's Repair**

In the event the Contractor refuses or neglects to make good any loss or damage for which the Contractor is responsible under this Contract, the Contract Manager may itself, or by the employment of others, make good any such loss or damage, and the cost and expense of doing so, including any reasonable engineering, legal and other consultant fees, and any costs of administrative and managerial services, shall be charged to the Contractor. Such costs and expenses may be deducted by the Contract Manager from claims for payment made by the Contractor for work completed or remaining to be completed.

**B-62 Antitrust Claim Assignment**

In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to this contract, the Contractor and all Subcontractors shall offer and agree to assign to the Contract
Manager 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 subcontract. This assignment shall be made and become effective at the time the Contract Manager tenders final payment to the Contractor, without further acknowledgement by the parties.

B-63 Waiver of Right to Rescind For Material Breach

The Contractor agrees that it can be adequately compensated by money damages for any breach of this Contract which may be committed by the Contract Manager and hereby agrees that no default, act, or omission of the Contract Manager or the Project Engineer, except for failure to make progress payments as required by Section B-72, shall constitute a material breach of the Contract entitling the Contractor to cancel or rescind the provisions of this Contract or (unless the Contract Manager shall so consent or direct in writing) to suspend or abandon performance of all or any part of the work. The Contractor hereby waives any and all rights and remedies to which it might otherwise be or become entitled, save only its right to money damages.

B-64 Contractor's License Notice

Contractors are required by law to be licensed and regulated by the Contractors' state license board which has jurisdiction to investigate complaints against Contractors of a complaint if filed within three (3) years of the date of the alleged violation. Any questions concerning a Contractor may be referred to the registrar, Contractors' state license board, 9835 Goethe Road, Sacramento, California. Mailing address: P.O. Box 26000, Sacramento, California 95826.
ARTICLE V. INSURANCE AND LIABILITY

B-65 Insurance

(a) Neither the Contractor nor any Subcontractors shall commence any work until all required insurance has been obtained at their own expense. Such insurance must have the approval of the Contract Manager as to limit, form, and amount, and shall be placed with insurers with a current A.M. Best's rating of no less than A:VII.

(b) Any insurance bearing on adequacy of performance shall be maintained after completion of the project for the full guarantee period.

(c) Prior to execution of the Contract, the Contractor shall furnish the Contract Manager with original endorsements effecting coverage for all policies required by the Contract. The Contractor shall not permit any Subcontractor identified in the Designation of Subcontractors form to commence work on this project until such Subcontractor has furnished the Contract Manager with original endorsements effecting coverage for all insurance policies required by the Contract. The endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the Contract Manager. As an alternative to the Contract Manager's forms, the Contractor's insurer may, subject to the approval of the Contract Manager, provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by this paragraph. The Contractor agrees to furnish one copy of each policy to the Contract Manager, and additional copies as requested in writing, certified by an authorized representative of the insurer.

(d) All of the Contractor's policies shall contain an endorsement providing that written notice shall be given, return receipt requested to Contract Manager and State Coastal Conservancy at least sixty (30) calendar days prior to termination, cancellation, or reduction of coverage in the policy.

(e) Any policy or policies of insurance that the Contractor elects to carry as insurance against loss or damage to its construction equipment and tools shall include a provision therein providing a waiver of the insurer's right to subrogation against the Contract Manager and the Project Engineer.

(f) The requirements as to the types, limits, and the Contract Manager's approval of insurance coverage to be maintained by the Contractor are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Contractor under the Contract.

(g) In addition to any other remedy the Contract Manager may have, if the Contractor or any of the Subcontractors fails to maintain the insurance coverage as required in this Section, the Contract Manager may obtain such insurance coverage as is not being maintained, in form and amount substantially the same as required herein, and the Contract Manager may deduct the cost of such insurance from any amounts due or which may become due the Contractor under this Contract.

(h) The Contractor and all Subcontractors shall, at their expense, maintain in effect at all times during the performance or work under the Contract not less than the following coverage and limits of insurance, which shall be maintained with insurers and under forms of policy
satisfactory to the Contract Manager. The maintenance by the Contractor and all Subcontractors of the following coverage and limits of insurance is a material element of this Contract. The failure of the Contractor or any Subcontractor to maintain or renew coverage or to provide evidence of renewal may be treated by the Contract Manager as a material breach of this contract.

(i) Worker’s Compensation and Employer’s Liability Insurance: Worker’s Compensation Insurance to protect the Contractor or Subcontractor from all claims under Worker’s Compensation and Employer’s Liability Acts, including Longshoremen’s and Harbor Worker’s Act. Such coverage shall be maintained, in type and amount, in strict compliance with all applicable State and Federal statutes and regulations. The Contractor shall execute a certificate in compliance with Labor Code Section 1861.

(ii) Claims Against Contract Manager - If an injury occurs to any employee of the Contractor or any of the Subcontractors for which the employee or its dependents, in the event of its death, may be entitled to compensation from the Contract Manager under the provisions of the said Acts, or for which compensation is claimed from the Contract Manager, there will be retained out of the sums due the Contractor under this Contract, an amount sufficient to cover such compensation as fixed by said Acts, until such compensation is paid or it is determined that no compensation is due. If the Contract Manager is required to pay such compensation, the amount so paid will be deducted and retained from such sums due, or to become due the Contractor.

(iii) Comprehensive General and Automobile Liability Insurance - The insurance shall include, but shall not be limited to, protection against claims arising from death, bodily or personal injury, or damage to property resulting from actions, failures to act, operations or equipment of the insured, or by its employees, agents, consultants, or by anyone directly or indirectly employed by the insured. Insurance shall be written with a limit of liability not less than $2,000,000 for all damages arising out of bodily injury, including death, at any time resulting therefrom, sustained by any one person in any one accident; and a limit of liability of not less than $2,000,000 aggregate for any damages sustained by two or more persons in any one accident. Insurance shall be written with a limit of liability of not less than $500,000 for all property damage sustained by one person in any one accident; and a limit of liability not less than $500,000 aggregate for any such property damage sustained by two or more persons in any one accident. Any deductibles must be declared to and approved by the Contract Manager. At the option of the Contract Manager, either: the insurer shall reduce or eliminate such deductibles as respects the entity, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

The comprehensive general and automobile liability insurance coverage shall also include the following:

1. Provision or endorsement naming the Northcoast Regional Land Trust, State Coastal Conservancy, the U.S. Fish and Wildlife Service and each of their officers, employees, and agents, each as additional insured in regards to liability arising out of the performance of any work under the Contract including activities related to
automobiles leased, hired, borrowed or owned and for work or operations including materials, parts or equipment, and providing that such insurance is primary insurance as respects the interest of the Contract Manager and Project Engineer and that any other insurance maintained by the Contract Manager and Project Engineer is excess and not contributing insurance with the insurance required hereunder.

2. "Cross Liability" or "Severability of Interest" clause.

3. Broad Form Property Damage, Personal Injury, Contractual Liability, Protective Liability Completed Operations coverages and elimination of any exclusion regarding loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to by insurers as the "XCU" hazards.

4. Provision or endorsement stating that such insurance, subject to all of its other terms and conditions, applies to the liability assumed by the Contractor under the Contract, including, without limitation, that set forth in Section B-61, Indemnity and Litigation Costs.

5. Provision or endorsement stating that any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Contract Manager, its officers, officials, employees, or volunteers.

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

**B-66 Indemnity and Litigation Cost**

(a) Promptly upon execution of the Contract, the Contractor specifically obligates itself and hereby agrees to protect, hold free and harmless, defend and indemnify the Contract Manager Project Engineer, USFWS and SCC officers, agents, employees, and consultants, and each of their officers, officials, employees and agents, from and against any and all liability, penalties, costs, losses, damages, expenses, causes of action, claims or judgments, including without limitation attorneys' fees and other costs of litigation, which arise out of or are in any way connected with the Contractor's, or its Subcontractors' or suppliers', performance of work under this Contract or failure to comply with any of the obligations contained in the Contract. This indemnity shall include the duty to defend indemnitees as set forth in civil code section 2778 and/or under other legal basis. This indemnification shall imply no reciprocal right of the Contractor in any action on the contract pursuant to California Civil Code section 1717 or section 1717.5. To the extent legally permissible, this indemnity and hold harmless agreement by the Contractor shall apply to any acts or omissions, whether active or passive, on the part of the Contractor or its agents, employees, representatives, or Subcontractor's agents, employees and representatives, resulting in liability, irrespective of whether or not any acts or omissions of the parties to be indemnified hereunder may also have been a contributing factor to the liability, except such loss or damage which was caused by the active negligence, sole negligence or willful misconduct of the Contract Manager.
(b) In any and all claims against the Contract Manager or the Project Engineer and its consultants, and each of their officers, employees and agents by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under Worker's Compensation statutes, disability benefit statutes or other employee benefit statutes.

B-67 Protection of Work

(a) The Contractor shall be responsible for the care of all work until completion and final acceptance; and the Contractor shall, at its own expense replace damaged or lost material and repair damaged parts of the work or the same may be done at the Contractor's expense by the Contract Manager and the Contractor and its sureties shall be liable therefore. The Contractor shall make its own provisions for properly storing and protecting all material and equipment against theft, injury, or damage from any and all causes. Damaged material and equipment shall not be used in the work. The Contractor shall take all risks from floods and casualties except as provided by law, and shall make no charge for the restoration of such portions of the work as may be destroyed or damaged by flood or other casualties or because of danger from flood or other casualties or for delays from such causes. The Contractor may, however, be allowed a reasonable extension of time on account of such delays, subject to the conditions hereinbefore specified. The Contractor shall not be responsible for the cost, in excess of five percent (5%) of the contracted amount, of repairing or restoring damage to the work, if the damage was proximately caused by an earthquake in excess of a magnitude of 3.5 on the Richter Scale or by tidal waves; provided that the work damaged was built in accordance with accepted and applicable building standards, and the plans and specifications of the Contract Manager.

(b) The Contractor shall effectively secure and protect adjacent property and structures, livestock, crops, and other vegetation. If applicable, the Contractor shall open fences on or crossing the right-of-way and install temporary gates of sound construction thereon so as to prevent the escape of livestock. Adjacent fence posts shall be adequately braced to prevent the sagging or slackening of the wire. Before such fences are opened, the Contractor shall notify the owner or tenant of the property and, where practicable, the opening of the fence shall be in accordance with the wishes of said owner or tenant. The Contractor shall be responsible that no loss or inconvenience shall accrue to the owner or tenant by virtue of its fences having been opened or the gate not having been either shut or attended at all times. Where special types of fences are encountered, the Contractor shall install temporary gates made of similar materials and of suitable quality to serve the purposes of the original fences. In all cases where the Contractor removes fences to obtain work room, it shall provide and install temporary fencing as required, and on completion of construction shall restore the original fence to the satisfaction of the Project Engineer. All costs of providing, maintaining and restoring gates and fencing shall be borne by the Contractor. It shall provide and maintain all passageways, guard fences, lights and other facilities for protection required by public authority or local conditions.

(c) The Contractor shall use extreme care during construction to prevent damage from dust to crops, livestock, milk production and adjacent property. The Contractor, at its own expense, shall provide adequate dust control for the right-of-way and take other preventive measures as directed by the Project Engineer.
(d) The Contractor shall be responsible for all damage to any property resulting from trespass by the Contractor or its employees in the course of their employment, whether such trespass was committed with or without the consent or knowledge of the Contractor.

(e) The Contractor shall be responsible for any damage caused by drainage or water runoff from construction areas. In an emergency affecting the safety of life, or of the work, or of adjoining property, the Contractor, without special instruction or authorization from the Project Engineer, is hereby permitted to act at the Contractor's discretion to prevent such threatened loss or injury, and it shall so act without appeal if so instructed or authorized. Any compensation claimed by the Contractor on account of emergency work shall be determined as specified under Section B-3. Should the Project Engineer deem an emergency condition to exist, the Contractor shall immediately do those things and take those steps ordered by the Project Engineer. The decision of the Project Engineer in this respect shall be final and conclusive. Any claims for compensation made by the Contractor on account of emergency work shall be determined as specified under Section B-3.

(f) Except as provided by Government Code Section 4215, the Contractor shall be responsible for protection of all public and private utilities, including irrigation facilities in the nature of utilities, located on the site of the construction project if and to the extent that the same are identified in the Contract Documents, and the Contractor shall not be entitled to any extension of time or claim for damages for extra compensation in connection therewith. If and to the extent that such utilities or facilities are not identified in the Contract Documents, as between the Contractor and the Contract Manager, the Contract Manager will be responsible for the cost of their removal, relocation or protection, as the case may be, but the Contractor shall perform any such work in conformance with applicable provisions of Sections B-3 and B-4, if so directed by the Project Engineer and in such situation the Contractor shall not be responsible for delay in completion of the project caused by the failure of the Contract Manager or the owner of the utility to provide for such removal or relocation. If the Contractor, while performing the Contract, discovers utility or irrigation facilities not identified by the Contract Manager in the Contract Documents, it shall immediately notify the Contract Manager in writing.

(g) Subject to the provisions of this Section, where the work to be performed under the Contract crosses or otherwise interferes with existing streams, watercourses, canals, farm ditches, pipelines, drainage channels, or water supplies, the Contractor shall provide for such watercourse or pipelines and shall perform such construction during the progress of the work so that no damage will result to either public or private interests, and the Contractor shall be liable for all damage that may result from failure to so provide during the progress of the work.

B-68 No Personal Liability

Neither the Contract Manager, Project Engineer nor any of their other officers, agents, or employees nor any other public office shall be personally responsible for any liability arising under the Contract, except such obligations as are specifically set forth herein.
ARTICLE VI. MEASUREMENT AND PAYMENT

B-69 Measurement of Quantities

Where the Contract provides for payment on a lump sum price basis, the Contractor shall submit a price breakdown to the Contract Manager immediately after award of the Contract. The price breakdown as agreed upon between the Contractor and the Contract Manager shall be used for preparing future estimates for partial payments to the Contractor and shall list the major items of Work and a price for each item. Overhead and other general costs and profit shall be prorated to each item so that the total of all items equals the lump sum price. The price breakdown shall be subject to the approval of the Contract Manager and Contractor may be required to verify the prices for any or all items. Where the Contract provides for payment on a unit price basis, the quantities of work performed will be computed by the Project Engineer on the basis of measurements taken by the Project Engineer.

Whenever the estimated quantities of work to be done and materials to be furnished under this contract are shown in any of the documents including the Proposal, they are given for use in comparing bids and the right is especially reserved, except as herein or otherwise specifically limited, to increase or diminish them as may be deemed reasonably necessary or desirable by the Contract Manager to complete the work contemplated by this contract and such increase or diminution shall in no way violate this Contract, nor shall any such increase or diminution give cause for claims, liability for damage or adjustment to the Contract time bid price.

B-70 Scope of Payment

(a) The Contractor shall accept the compensation provided in the Contract as full payment for furnishing all labor, material,

(b) Is, tools, equipment, and incidentals necessary to the completed work and for performing all work contemplated and embraced under the Contract; also for loss or damage arising from the nature of the work, or from the action of the elements, or from any unforeseen difficulties which may be encountered during the prosecution of the work until the acceptance by the Contract Manager and for all risks of every description connected with the prosecution of the work, also for all expenses incurred in consequence of the suspension or discontinuance of the work as provided in the Contract; and for completing the work according to the specifications and plans. Neither the payment of any estimate nor of any retained percentage shall relieve the Contractor of any obligation to make good any defective work or material.

(c) No compensation will be made in any case for loss of anticipated profits. Increased or decreased work involving supplemental agreements will be paid for as provided in such agreements.

B-71 Progress Estimate

At least ten (10) days before each progress payment falls due (but not more often than once a month), the Contractor will submit to the Contract Manager a partial payment estimate filled out and signed by the Contractor covering the work performed during the period covered by the partial pay estimate and supported by such data as the Contract Manager may reasonably require. If payment is requested on the basis of materials and equipment not incorporated in the work but delivered and suitably stored at or near the site, the partial payment estimate shall also be accompanied by such supporting data,
satisfactory to the Contract Manager, as will establish the Contract Manager’s title to the material, and equipment and protect its interest therein, including, applicable insurance. The Project Engineer will within seven (7) days after receipt of each partial payment estimate either recommend payment to the Contract Manager or return the estimate to the Contractor indicating in writing its reasons for refusing to approve payment. In the latter case, the Contractor may make the necessary corrections and resubmit the partial pay estimate.

Payroll certification forms provided by the Contractor and fully executed shall be filed with the Contract Manager at the time of submission of each partial payment estimate and also when the claim for final payment is submitted. Wage Report forms shall be completed and submitted as set forth in Parts 4 and 5.

**B-72 Progress Payments**

(d) The Contractor is made aware that this contract is funded by the U.S. Fish and Wildlife Service (USFWS) and administered through an agreement with the State Coastal Conservancy (SCC). The SCC pay in arrears for work completed.

(e) The Contract Manager, the Project Engineer, and SCC will review all partial payments upon receipt of an undisputed, properly submitted progress estimate from the Contractor, recommended by the Contract Manager.

(f) Any payment request determined not to be a proper payment request suitable for payment shall be returned to the Contractor as soon as practicable but not later than thirty (30) days after receipt. A request returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper.

(g) The Contract Manager will pay the Contractor ninety-five percent (95%) of the amount of each progress estimate within sixty (60) days of the Contract Manager, SCC, and the Project Engineer approving the progress estimate.

(h) When, in the judgment of the Project Engineer, the work is not proceeding in accordance with the provisions of the Contract, or when in its judgment the total amount of the work done since the last estimate amounts to less than $1,000, no pay estimate will be prepared and no progress payment will be made.

(i) No progress estimate or payment shall be considered to be an approval or acceptance of any work, materials, or equipment. Estimated amounts and values of work done and materials and equipment furnished will be conformed with actual amounts and values as they become available in subsequent progress estimates, progress payments and the final estimate and payment. All estimates and payments will be subject to correction in subsequent progress estimates and payments and the final estimate and payment.

(j) The Contract Manager requires that any payments due to Subcontractors for a portion of the work satisfactory completed shall be made by Contractor to Subcontractors within fifteen (15) days of Contract Manager's payment to Contractor. Failure to make such payments in a timely fashion may result in the Contract Manager issuing future progress payments by joint check to the Contractor and Subcontractors.
(k) It is mutually agreed between the parties to the Contract that no payments made under the Contract, including progress payments and the final payment, shall be evidence of the performance of the Contract, either wholly or in part, and no payment shall be construed to be an acceptance of any defective or incomplete work or improper materials.

B-73 Retention Proceeds; Withholdings; Disbursements

Notwithstanding other requirements of these General Conditions, Section 7107 of the Contract Code shall govern as to retention proceeds; withholding and ultimate disbursement of funds.

B-74 Liens and Stop Notices

The Contractor agrees to keep the work, the site of the Work and all monies held by the Contract Manager free and clear of all liens and stop notices related to labor and materials furnished in connection with the Work, if permitted by law. Furthermore, the Contractor waives any right it may have to file any type of lien or stop notice in connection with the Work. Notwithstanding anything to the contrary contained in the Contract documents, if any such lien or stop notice is filed or there is evidence to believe that lien or stop notice may be filed at any time during the progress of the Work or within the duration of this Contract, the Contract Manager may refuse to make any payment otherwise due the Contractor or may withhold any payment due the Contractor a sum sufficient in the opinion of the Contract Manager to pay all obligations and expenses necessary to satisfy such lien or stop notice. The Contract Manager may withhold such payment unless or until the Contractor, within ten days after demand therefore by the Contract Manager, shall furnish satisfactory evidence that the indebtedness and any lien or stop notice in respect thereof has been satisfied, discharged and released of record, or that the Contractor has legally caused such lien or stop notice to be released of record pending the resolution of any dispute between the Contractor and any person or persons filing such lien or stop notice. If the Contractor shall fail to furnish such satisfactory evidence within ten days of the demand therefore, the Contract Manager may discharge such indebtedness and deduct the amount thereof, together with any and all losses, costs, damages and attorney's fees suffered or incurred by the Contract Manager from any sum payable to the Contractor under the Contract documents, including but not limited to final payment and retained percentage. This Section shall be specifically included in all Subcontracts and purchase orders entered into by the Contractor.

B-75 Final Acceptance and Date of Completion

Whenever the Contractor shall deem all work under this Contract to have been completed in accordance therewith, it shall so notify the Contract Manager in writing, and the Project Engineer shall promptly ascertain whether the work has been satisfactorily completed and, if not, shall advise the Contractor in detail and in writing of any additional work required. When all the provisions of the Contract have been fully complied with to the satisfaction of the Contract Manager, it shall proceed with all reasonable diligence to determine accurately the total value of all work performed by the Contractor at the prices set forth in the Contract or fixed by Change Orders, and the total value of all extra work, all in accordance with the Contract. The Contract Manager will then certify to said final estimate and to the completion of the work, and will file copies thereof with the Contract Manager and the Contractor. The date of completion shall be the date upon which the Contract Manager makes its formal written acceptance of the work.
B-76 Final Payment

Within ten (10) days after the date of completion, the Contract Manager will file in the Office of the County Recorder, a Notice of Completion of the work herein agreed to be done by the Contractor. On the expiration of thirty-five (35) days after the recordation of such Notice of Completion the difference between said final estimate and all payments theretofore made to the Contractor shall be due and payable to the Contractor upon receipt of funding by Contract Manager from funding agencies and subject to any requirements concerning the furnishings of a maintenance bond, and excepting only such sum or sums as may be withheld or deducted in accordance with the provisions of this Contract. All prior certifications, upon which partial payments may have been made, being merely estimates, shall be subject to correction in the final certificate.

B-77 Final Release

Final payment to the Contractor in accordance with the final estimate is contingent upon the Contractor furnishing the Contract Manager with a signed written release of all claims against the Contract Manager arising by virtue of the Contract. Disputed Contract claims in stated amounts may be specifically excluded by the Contractor from the operation of the release. The release shall be in substantially the following form:

WAIVER AND RELEASE UPON FINAL PAYMENT

The undersigned has been paid in full by the Contract Manager for all labor, services, equipment and material furnished to the Contract Manager on the_________________. Improvements located at Freshwater, California, and does hereby waive and release the Contract Manager, its officers, agents, and employees, from all claims and liability to the Contractor arising out of, or in any way connected with, the Contract, except for the disputed contract claims specified below:

<table>
<thead>
<tr>
<th>Notice of disputed claim</th>
<th>Amount of Claim</th>
</tr>
</thead>
<tbody>
<tr>
<td>$________________</td>
<td></td>
</tr>
</tbody>
</table>

Dated: ___________________ (Name of Contractor)

By:                          (Title)

Any payment, however, final or otherwise shall not release the Contractor or its sureties from obligations under the Contract Documents or Performance and Payment Bonds.

B-78 Right to Withhold Payments

(a) In addition to all other rights and remedies of the Contract Manager hereunder and by virtue of the law, the Contract Manager may withhold or nullify the whole or any part of any partial or final payment to such extent as may reasonably be necessary to protect the Contract Manager from loss on account of:

(i) Defective work not remedied, irrespective of when any such work be found to be defective;
(ii) Claims or liens filed or reasonable evidence indicating probable filing of claims or liens including, but not limited to claims under Sections 1775, 1776, or 1777.7 of the Labor Code;

(iii) Failure of the Contractor to make payments properly for labor, materials, equipment, or other facilities, or to Subcontractors and/or suppliers;

(iv) A reasonable doubt that the work can be completed for the balance then unearned;

(v) A reasonable doubt that the Contractor will complete the work within the agreed time limits;

(vi) Costs to the Contract Manager resulting from failure of the Contractor to complete the work within the proper time; or

(vii) Damage to work or property.

(viii) Damage to another Contractor.

(ix) Performance of work in violation of the Terms of the Contract Documents.

(x) Where work on unit items is substantially complete, but lacks cleanup and/or other corrections ordered by the Project Engineer, amounts shall be deducted from the unit prices in partial payment estimates to amply cover such cleanup and correction.

(xii) Failure to file required Equal Opportunity and Affirmative Action forms.

(b) Whenever the Contract Manager shall, in accordance herewith, withhold any monies otherwise due the Contractor, written notice of the amount withheld and the reasons therefore will be given the Contractor. After the Contractor has corrected the enumerated deficiencies, the Contract Manager will promptly pay to the Contractor the amount so withheld. When monies are withheld to protect the Contract Manager against claims or liens of mechanics, material men, Subcontractors, etc., the Contract Manager may at its discretion permit the Contractor to deliver a surety bond in terms and amount satisfactory to the Contract Manager, indemnifying the Contract Manager against any loss or expense, and upon acceptance thereof by the Contract Manager, the Contract Manager shall release to the Contractor monies so withheld.

B-79 Waiver of Interest

The Contract Manager shall have no obligation to pay and the Contractor hereby waives the right to recover interest with regard to monies which the Contract Manager is required to withhold by reason of judgment, order, statute or judicial process.

B-80 Satisfaction of Claims and Liens

Neither the final payment nor any part of the retained percentage shall become due until the Contractor, if required, shall deliver to the Contract Manager, a complete release of all liens and claims arising out of this Contract, or receipts in full in lieu thereof and, if required in either case, an affidavit that so far as it has knowledge or information the releases and receipts include all the labor and material
for which a lien or claim could be filed; but the Contractor may, if any Subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the Contract Manager, to indemnify the Contract Manager against any lien or claim. If any lien or claim remains unsatisfied after all payments are made, the Contractor shall refund to the Contract Manager all monies that the latter may be compelled to pay in discharging such a lien, or claim, including all costs and reasonable attorney’s fees.

**B-81 Ownership of Documents and Other Work Products**

Documents and work products produced under this agreement shall be the property of the Coastal Conservancy per the requirements of the contract between the Coastal Conservancy and the Contract Manager.
PART 4: TECHNICAL SPECIFICATIONS

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DIVISION 1 GENERAL REQUIREMENTS

SECTION 01 10 00 SUMMARY OF WORK

PART 1 GENERAL

1. WORK COVERED BY CONTRACT DOCUMENTS

A. Description:

   1. The Work consists of disking and preparing designated areas of pasture (marsh plain); transporting excavated soil and composted vegetation from an on-site stockpile to designated areas on the pasture (marsh plain), spreading, disking and grading excavated soil and composted vegetation; placing seed and mulch on spread soil; harvesting willows from on-site location and installing them as wood habitat structures in the slough channels; and establishing and maintaining environmental protection BMP’s.

   2. The Contractor shall carefully review all sections of the Plans and Specifications in order to completely understand the Work.

   3. The Contractor is encouraged to proceed in an orderly and expeditious manner. All work is to be constructed in strict accordance with the Plans and Specifications and subject to the terms and conditions of the Contract.

B. Contractor’s duties:

   1. Except as specifically noted, provide and pay for:

      a. Labor, materials and equipment.

      b. Tools, construction equipment and machinery.

      c. All utilities required for construction.

      d. All other facilities and services necessary for proper execution and completion of work.

   2. Pay legally required sales, consumer and use taxes.

   3. Contractor shall obtain all other necessary operating permits and licenses; and comply with them and all other applicable Local, State, and Federal laws and regulations.

      a. Contractor is responsible for obtaining and complying with any relevant operating permits needed for the proposed construction activities, including, but not limited to, traffic and encroachment permits related to the delivery and hauling of construction equipment and materials, and traffic control...
measures. The Contractor must follow all pertinent CALTRANS requirements for hauling large vehicles or equipment to the project site. If a county road is used for heavy equipment transport or wide loads, pertinent clearances with the Humboldt County Department of Public Works must be obtained.

b. See Part 5 of the bid package for all environmental permits already acquired by the Contract Manager that Contractor shall abide by.

4. Give required notices.

5. Comply with codes, ordinances, rules, regulations, orders and other legal requirements of public authorities which bear on performance of the work.

6. Promptly submit written notice to Contract Manager of observed variance of Contract Documents from legal requirements.

7. The Contractor shall obtain his own disposal site for trash, replaced materials and other debris.

8. If any Subcontractor or person employed by the Contractor shall appear to the Contract Manager to be incompetent or to act in a disorderly or improper manner, the person shall be discharged immediately on the requisition of the Contract Manager or Project Engineer, and such person shall not again be employed on the Project.

C. Location of Work

1. The work will take place at the Freshwater Farms Reserve, 5851 Myrtle Avenue, Freshwater, CA.

2. CONTRACT DESCRIPTION

A. All Work is contained in this Contract. The limits of work are shown in the Plans. It will be the Contractor’s responsibility to coordinate their activities to resolve conflicts.

B. Work conducted includes, but is not limited to:

1. Mobilization of Contractor’s equipment.

2. Installation, maintenance and deconstruction of stabilized construction entrances and other temporary stormwater and environmental BMP’s.

3. Site preparation activities on pasture, which includes disking 2.5 acres to a minimum of 8 inches below the surface, as well as other site preparation activities described in these Specifications, such as disassembling portion(s) of the pasture fence to create access ways throughout the project area.

4. Transportation, placement, disking and grading of excavated material on pasture as indicated on the Plans.
5. Harvest whole willow trees onsite and install as wood habitat structures in excavated off-channel slough network under direction of Project Biologist or Project Engineer.

6. Dewatering or other activities required to facilitate work.

7. Implementing wind erosion control measures and other sediment and erosion control practices.

8. Placing seed (using broadcast method) and mulch on the disturbed area within the pasture.

9. Coordination of work with Contract Manager and Project Engineer.

10. Demobilization and cleanup.

3. PROJECT OBJECTIVE

A. The Project Objective is to complete construction of aquatic habitat enhancement features and construct marsh plain improvements to improve conditions for salmonids, and other fish and wildlife.

4. PROJECT SCHEDULE

A. Contractor may start work after the Notice to Proceed is issued.

B. Contractor shall complete preparations to install wood structures by September 21, 2017.

C. Contractor shall install wood habitat structures under direction of Project Biologist on September 21 and/or September 22, 2017.

D. All ground disturbing activities and stabilization shall be completed by September 29, 2017. The contractor shall have until October 13, 2017 for complete demobilization and cleanup.

5. PROJECT MEETINGS

A. See Section 01 30 00 Administrative Requirements.

6. ADDITIONAL SPECIFICATIONS

A. See Plans for additional Project Specifications

PART 2 PRODUCTS [NOT USED]

PART 3 EXECUTION [NOT USED]

END OF SECTION 01 10 00
SECTION 01 15 00 MEASUREMENT AND PAYMENT

PART 1 GENERAL

1. GENERAL

A. Unless otherwise specified in other individual sections of these Specifications, quantities of work shall be determined from supplier receipts noting the quantity of material itemized in the measurement unit in the Bid Schedule.

B. Units of measurement shall be in accordance with U.S. Standard Measures.

C. See the General Conditions for special provisions related to progress payments and payment schedule to the Contractor. The payments to the Contractor are based on the following items. It is the intent that the scope of the description of the following items encompasses the entire scope of the work as shown on the Plans and described in the Specifications. The bid amounts shall be for complete in place installations.

D. Unit prices paid will be those shown on the Bid Schedule regardless of the quantity installed.

E. Full compensation for preparing and furnishing all submittals shall be considered as included in the prices paid for the Contract items of work to which such drawings relate and no additional compensation will be allowed therefor.

2. BASE BID SCHEDULE

Item 1: Project Area Mobilization and Demobilization

Payment for this item shall be on a LUMP SUM basis. Payment shall correspond to percent complete as confirmed by the Project Engineer and described in this bid item below. This Work covers all Contractor costs and effort associated with mobilizing equipment, materials, and labor to the Project Area as well as demobilization of same for the base bid schedule. This Work includes the cost of all bonding and Contractor's permits and licenses. The incremental mobilization and demobilization costs associated with any additive bid items will be covered in those items, if awarded.

This Work also includes, but is not limited to, bonds, insurance, contracting and administrative and permitting costs. This item includes costs for temporary facilities and utilities, repairs of damaged property, site cleanup, final site restoration, road repairs and project maintenance and warranty. This work also includes general items; including but not limited to submittals; construction access; implementing and maintaining erosion and sediment control as indicated on Plans or as directed by the Project Engineer; and all other work and incidental expenses required to complete the contract Plans, not included in other items below.

1. This Bid Item also covers the development of the Project Approach Plan submittal. The Project Approach Plan will define the overall approach the Contractor will take to complete the work associated with the Contract Documents.
2. When 10 percent of the total original Contract amount is earned from construction of Bid Items 2 - 6, excluding amounts paid for materials on hand, 50 percent of the amount of this bid item will be paid. Upon completion of all Work on the project, payment of the balance of the bid amount for this item will be paid.

3. Any other work shown on the plans and not specifically mentioned/described in the following bid items will be paid under this item.

Item 2: Reinstall and Remove Stabilized Construction Entrance

Payment for this item shall be on a LUMP SUM basis. Payment shall include furnishing full compensation for all submittals, labor, materials, tools, equipment, testing, supervision and incidentals for doing all the work involved in installing, maintaining, operating a Stabilized Construction Entrance, and removing the entrance upon the completion of construction as indicated on Plans. Contractor may use rock stockpiled on site, but may need to supply additional rock to complete installation.

Item 3: Disk and Prepare Pasture

Payment for this item will be on a LUMP SUM basis for disking and preparing field-flagged pasture area for placement of fill. This item will not be measured. The approximate limits of the area to be disked and prepared are shown on the Plans and are less than 2.5 acres. Payment shall include full compensation for furnishing all labor, tools, equipment, and incidentals and for doing all the work involved in disking the designated areas as specified.

Item 4: Transport, Place, Disk and Grade Fill on Pasture

Payment for this item shall be on a LUMP SUM basis for the volume of excavated material determined by the Project Engineer as shown on the Plans. Payment shall include full compensation for furnishing all labor, tools, equipment, and incidentals and for doing all the work involved in moving soil and decomposed vegetation from stockpile, placing, disking, and grading fill on the pasture to the configurations shown on the Plans and in accordance with the staking.

Item 5: Harvest Whole Willow Trees onsite and Install as Wood Habitat Structures in Excavated Off-Channel Slough Network

Payment for this item will be for each piece of Large Wood installed as directed by the Project Biologist and/or Project Engineer. Payment shall include full compensation for furnishing all labor, tools, excavation, transport, equipment, and incidentals and for doing all the work involved in harvesting, transporting, installing, and anchoring each piece of Large Wood. Large Wood will be harvested from on-site locations as indicated on plans. Large wood will be harvested as single whole trees with root wads attached by excavation or pushing trees over. Installation of any small wood as directed by Project Biologist and/or Project Engineer is incidental to Large Wood and will not be paid.

Item 6: Seed and Mulch Pasture and Areas of Disturbance
Payment for this item will be on a LUMP SUM basis for the seed and mulch placed on graded and disturbed areas. Seed and mulch shall be placed on all areas disturbed by grading operations or Contractor use (including non-paved access, staging, the ground beneath the cattail stockpile, the ground beneath any additional stockpile(s) that were created during construction, and haul routes necessary to access sediment application and tree harvest areas). Straw shall be used as mulch and shall be provided by contractor. Payment shall include full compensation for furnishing all labor, tools, equipment, and incidentals including final grading for doing all the work involved in preparing submittals, delivering, handling, and placing Seed and Straw Mulch.

PART 2 PRODUCTS [NOT USED]

PART 3 EXECUTION [NOT USED]

END OF SECTION 01 15 00
SECTION 01 30 00

ADMINISTRATIVE REQUIREMENTS

PART 1 GENERAL

1. SECTION INCLUDES

A. Pre-bid site inspection conference

B. Preconstruction Meeting

C. Weekly Project Coordination Meeting

2. PRE-BID SITE INSPECTION CONFERENCE

A. Prior to awarding the Contract, a Pre-bid site inspection conference will occur as established in the Advertisement for Bids. The Pre-bid site inspection conference shall be attended by all prospective Contractors, the Contract Manager, the Project Engineer, the Contract Manager’s representative and any other parties requested by the Contractor or the Contract Manager.

3. PRECONSTRUCTION MEETING

A. Contract Manager and/or Contract Manager’s representative will schedule meeting after Notice of Award.

B. Prior to the commencement of Work at the site, a Preconstruction Meeting will be held at a mutually agreed time and place.

C. Unless previously submitted to the Contract Manager, the Contractor shall bring to the conference two (2) copies of each of the following:

1. Draft Construction Schedule.


3. Submittal schedule.

4. Letter of Responsibility designating emergency contacts for the Contractor after business hours.

D. The purpose of the meeting is to designate responsible personnel and establish a working relationship. Matters requiring coordination will be discussed and procedures for handling such matters established.

E. The Project Engineer will preside at the Preconstruction Meeting and will arrange for keeping the minutes and distributing the minutes to all persons in attendance.
F. Agenda (Tentative):

1. Notice to Proceed date.
2. Contractor’s tentative schedules.
3. Submission of list of subcontractors.
4. Critical work sequencing.
6. Procedures and processing of field decisions, submittals, substitutions, applications for payments, proposal request, Change Orders, and Contract closeout procedures.
7. Major equipment deliveries and priorities.
8. Use of premises by Contractor.
10. Owner’s requirements and occupancy.
11. Site Safety Contractor’s assignments for safety and first aid.
13. Procedures for maintaining record documents.

4. PROJECT COORDINATION MEETINGS (IF WORK EXTENDS BEYOND ONE WORK WEEK)

A. The Contract Manager and/or the Contract Manager’s representative in consultation with the Contractor shall schedule, and conduct project coordination meetings. Meeting shall be attended by the Contract Manager, the Contractor, representatives of key subcontractors, and the Project Engineer. The Contract Manager and Project Engineer may designate a representative that will attend the meeting in their place. The Contractor may, with the permission of the Contract Manager, designate a representative that will attend the meeting in their place. The purpose of these meetings shall be to review the progress of the Work, resolve conflicts, and in general, coordinate and expedite the execution of the Work.

B. The Contract Manager will make arrangements for meetings, prepare agenda with copies for participants, preside at meetings and record the meeting minutes.

C. Agenda (Tentative):

1. Review and acceptance of minutes of previous meeting.
2. Review of Work progress and schedule status.
3. Field observations, problems, and decisions.

4. Resolution of implementation issues.

5. Review of environmental compliance.


7. Planned progress during succeeding work period.

8. Other business relating to Work.

PART 2 PRODUCTS [NOT USED]

PART 3 EXECUTION [NOT USED]

END OF SECTION 01 30 00
SECTION 01 33 00 SUBMITTALS

PART 1 GENERAL

1. GENERAL

   A. Submittals shall include but not be limited to shop drawings, materials certifications, material testing and testing reports, work plans, and progress schedules.

   B. No changes shall be made by the Contractor regarding the materials and methods specified in the submittal after they have been approved by the Contract Manager.

   C. Contractor agrees that submittals processed by Contract Manager are not Contract Change Orders; that the purpose of submittals prepared by the Contractor is to demonstrate to the Contract Manager that the Contractor understands the design concept by indicating which equipment and material it intends to furnish and by detailing the methods it intends to use.

   D. When submitted for Contract Manager’s review, each submittal shall bear the Contractor’s certification that it has been reviewed, checked and approved and that the submittal is in conformance with the requirements of the Contract Documents.

   E. That Portion of the Work requiring a Submittal or sample submission shall not begin until the Submittal or submission has been approved by Contract Manager. A copy of each approved Submittal and each approved sample shall be kept in good order by the Contractor at the site and shall be available to Contract Manager.

   F. Acceptance by Contract Manager of any drawing, method of work, or any information regarding materials and equipment the Contractor proposes to furnish shall not relieve the Contractor of his responsibility for any errors therein and shall not be regarded as an assumption of risks or liability by Contract Manager, or any officer or employee thereof, and the Contractor shall have no claim under the Contract on account of the failure or partial failure or inefficiency or insufficiency of any plan or method or work or material and equipment so accepted. Such acceptance shall be considered to mean merely that Contract Manager has no objection to the Contractor using, upon his own full responsibility, the plan or method of work proposed, or furnishing the materials and equipment proposed.

2. SUBMISSION PROCESS

   A. Submit a single re-producible copy or email an electronic version of the submittal to Contract Manager.

   B. Identify Project, Contractor, Subcontractor and supplier; pertinent drawing and detail number, and specification section number, appropriate to submittal.
C. Apply Contractor’s stamp, signed or initialed certifying that review, approval, verification of products required, field dimensions, adjacent construction work, and coordination of information is in accordance with requirements of the Work and Contract Documents.

D. Identify variations from Contract Documents and product or system limitations which may be detrimental to successful performance of completed Work.

E. When revised for resubmission, clearly identify changes made since previous submission.

3. MEASUREMENT AND PAYMENT

A. Measurement and payment for this item shall be included in the Bid Item to which it relates. No additional measurement or payment will be included for the requirements of this section.

4. REQUIRED SUBMISSIONS

A. Required submissions are detailed and described in the Plans and Specifications. They shall be submitted to the Contract Manager within one week following Notice of Award and include, but are not limited to:

1. Project Approach Plan

2. Schedules

3. Spill Prevention Plan

4. Tire Tracking Control Plan

5. List of Subcontractors

6. Straw Mulch Specifications

PART 2 PRODUCTS [NOT USED]

PART 3 EXECUTION [NOT USED]

END OF SECTION 01 33 00
SECTION 01 71 00 CONSTRUCTION STAKEOUT AND SURVEYING

PART 1 GENERAL

1. OBLIGATION OF CONTRACT MANAGER
   A. Construction stakeout will be performed by Project Engineer.
   B. Stakeout will consist of the following:
      1. Stakes placed to indicate limit of fill areas.
      2. Stakes placed to indicate depth of fill.
   C. The Project Engineer will conduct surveys of completed work to verify conformance with Plans.

2. OBLIGATION OF CONTRACTOR
   A. It is the responsibility of the Contractor to coordinate with the Project Engineer to identify stakeout preferences. It is the responsibility of the Contractor to maintain benchmarks and staking.

PART 2 PRODUCTS [NOT USED]

PART 3 EXECUTION [NOT USED]

END OF SECTION 01 71 00

END DIVISION 1
DIVISION 06 WOOD, PLASTICS, AND COMPOSITES

SECTION 06 13 13 HARVEST WHOLE WILLOW TREES ONSITE AND INSTALL AS WOOD HABITAT STRUCTURES IN OFF-CHANNEL SLOUGH NETWORK

PART 1 GENERAL

1. DESCRIPTION
   A. This work consists of installation of large wood in excavated channels to construct aquatic habitat structures.

2. MEASUREMENT AND PAYMENT
   A. Refer to Section 01 15 00 Measurement and Payment.

PART 2 PRODUCTS

1. PRODUCTS
   A. Large Wood, is available onsite and will need to be harvested by contractor so as to keep the roots intact.
   B. Each piece of Large Wood will consist of a log and root wad that is between 10 and 30 feet in length and between 4-inches and 24-inches in diameter.

PART 3 EXECUTION

1. SUPERVISION
   A. The Project Biologist or Project Engineer will supervise the installation of Large Wood. The Project Biologist or Project Engineer will indicate the general location and orientation of the wood installation. The Project Biologist or Project Engineer will work with the Contractor or Contractor’s equipment operator to produce an acceptable installation.
   B. Instream tree installation shall take place on September 21 and/or September 22, 2017; the tides are expected to be low in the morning and high in the afternoon. Minimal dewatering efforts may suffice if this portion of work is to be completed in the morning (8am-noon). Please see NOAA’s tidal predictions for the Eureka Slough Bridge for more information: https://tidesandcurrents.noaa.gov/tide_predictions.html. Assume the high and low tide will reach the project site one hour later than when is stated at the Eureka Slough Bridge.

2. ANCHORING METHODS
   A. Large Wood will be anchored using soil ballast, by driving, or by placement of other Large Wood pieces.
B. For soil ballast, the Contractor will be directed to excavate trenches up to five feet in depth and up to ten feet in length. Large Wood will be placed in the trench. The Contractor shall replace the excavated soil in six-inch lifts and compact soil to 85% relative density and to the satisfaction of the Project Engineer.

C. Some Large Wood will act as pin logs and will be placed by driving or by excavation. The Large Wood acting as pin logs may be trimmed or sharpened to facilitate driving. If placed by excavation, the Contractor shall replace the excavated soil in six-inch lifts and compact soil to 85% relative density and to the satisfaction of the Project Engineer.

D. Any incidental small wood will be placed as directed by the Project Biologist and/or Project Engineer.

END OF SECTION 06 13 13
DIVISION 31 EARTHWORK

SECTION 31 05 16 ROCK

PART 1 GENERAL

1. DESCRIPTION

   A. Erosion Control Rock will be used to construct the Stabilized Construction Entrance (TC-1). Approximately 1.5 cubic yards of Erosion Control Rock is onsite and available for use. Contractor is responsible for providing additional rock as needed to install and maintain Stabilized Construction Entrance.

2. MEASUREMENT AND PAYMENT

   A. Refer to Section 01 15 00 Measurement and Payment.

PART 2 PRODUCTS

1. PRODUCTS

   A. Erosion Control Rock shall consist of a crushed aggregate greater than 3-inches and less than 6-inches.

PART 3 EXECUTION [NOT USED]

END OF SECTION 31 05 16
SECTION 31 11 00 DISKING AND PREPARING PASTURE

PART 1 GENERAL

1. DESCRIPTION

A. This work consists of disking required to prepare area within the pasture for placement of fill

2. MEASUREMENT AND PAYMENT

A. Refer to Section 01 15 00 Measurement and Payment.

PART 2 PRODUCTS [NOT USED]

PART 3 EXECUTION

1. PASTURE SITE PREPARATION

A. The Contractor shall prepare the Pasture Fill Areas for placement of fill by disking or harrowing the designated areas to a depth of 8 inches to cut and uproot the non native grasses and vegetation that currently exist.

B. Portions of the fill areas may be persistently flooded by saline water. The Contractor shall consult with the Project Engineer prior to disking or harrowing persistently flooded areas. The Project Engineer may direct the Contractor to delete these areas from treatment.

2. CATTAIL STOCKPILE PREPARATION

A. The Contractor shall prepare the stockpiled cattail by removing the silt fence and cutting back large vegetative growths and piling them outside of the cattail stockpile in a designated area. The stockpile consists of decomposing cattails and earthen fill with large clods (>6 inches) intermixed.

END OF SECTION 31 11 00
SECTION 31 20 00 EARTHWORK

PART 1 GENERAL

1. DESCRIPTION

A. Section includes transportation, placement, disking, and grading of cattail stockpile onto the designated fill areas necessary or required for the construction of the Work shown on Plans and as covered by these Specifications.

2. MEASUREMENT AND PAYMENT

A. Refer to Section 01 15 00 Measurement and Payment.

3. QUALITY ASSURANCE

A. Contractor shall arrange construction activities to minimize erosion to the maximum practical extent. Transportation, placement, disking and grading shall be limited to those areas of the project sites necessary for construction. Contractor shall minimize the area that is exposed and unprotected.

B. Project Engineer shall clearly mark and delineate the designated Fill Area and the Project Limits of Disturbance. Contractor shall not allow equipment to operate outside the Limits of Disturbance or to disturb protected areas.

4. PROTECTION

A. The Contractor shall prevent erosion of freshly graded areas during construction and until such time as a permanent drainage and erosion control measures have been installed.

B. Earthwork operations shall be conducted so as to prevent windblown dust and dirt from interfering with the surrounding normal operations. Contractor shall assume liability for all claims related to windblown dust and dirt. Water shall be applied in conformance to BMP WE-1.

PART 2 PRODUCTS [NOT USED]

PART 3 EXECUTION

1. PLACEMENT OF CATTAIL STOCKPILE FILL

A. The Contractor shall place and disk fill in the designated Fill Area at least once to meet the lines and grades as field staked. Fill shall be rough graded to break up clods to less than six inches in diameter. Fill shall be graded to meet the depth of fill staking as indicated by the Project Engineer. Fill surface may have a rough appearance with depressions and humps of less than three inches.
END OF SECTION 31 20 00 EARTHWORK

END DIVISION 31
SECTION 32 31 26 WIRE FENCE AND GATES

PART 1 GENERAL

1. DESCRIPTION

   A. The Contractor may remove wire from pasture fences to facilitate traffic through the Project Area. The Contractor shall coordinate any wire removal with the Project Engineer.

   B. Any wire removed should be coiled neatly and either placed on high ground near the point of removal or hung from the fence. Contractor should avoid cutting wire and strive to maintain wire in useable condition.

   C. The Contractor shall maintain fence posts within the Project Area. Any fence posts disturbed or destroyed by the Contractor’s actions shall be replaced or reset by the Contractor at the Contractor’s cost.

2. MEASUREMENT AND PAYMENT

   A. This item will not be measured. Contractor’s costs for wire removal or other fence maintenance activities are incidental to Project Mobilization and Demobilization.

PART 2 PRODUCT [NOT USED]

PART 3 EXECUTION [NOT USED]

END OF SECTION 32 31 26
SECTION 32 92 19 SEED AND MULCH

PART 1 GENERAL

1. DESCRIPTION

A. Provide all material, labor and equipment necessary to perform the work for soil seeding, and mulching. The Work of this Seed and Mulch section includes but is not limited to:

2. Seeding.
3. Applying straw mulch.

2. MEASUREMENT AND PAYMENT

A. Refer to Section 01 15 00 Measurement and Payment.

3. REFERENCES


PART 2 PRODUCTS

1. SEED MIX

A. The Contract Manager will provide a native seed mix and specify the rate of broadcast seed application.

B. The Contract Manager-provided seed shall comply with the California Seed Law. Commercially obtained seed shall be labeled under the California Food and Agricultural Code, and by the vendors supplying the seed. The percent of weed seed shall not exceed 1.5 percent by weight of the total seed mixture.

2. STRAW MULCH

A. Straw used for mulch shall be certified weed-free straw mulch.

B. Straw may not be reused.

C. Submission

1. At least 14 days prior to mulching, Contractor shall submit documentation demonstrating that selected straw meets or exceed specifications. No straw may be delivered to the site until the Contract Manager has approved the straw mulch.
PART 3 EXECUTION

1. GROUND PREPARATION

   A. Areas to be seeded shall be tilled to a depth of at least one inch prior to seeding.

   B. Areas where soil has been compacted or disturbed by grading operations or Contractor use (including non-paved access, staging, cattail stockpile, any additional stockpiles, and haul routes necessary to access sediment application areas) shall be de-compacted and graded to original contours to the Project Engineer’s satisfaction.

2. SEEDING

   A. Timing

      1. Seeding should be performed upon completion of soil preparation work and prior to September 29, 2017.

3. LAYOUT

   1. The Contractor shall be responsible for seeding and mulching the pasture as identified in the plans.

   2. The Contractor shall also seed and mulch all areas disturbed by grading operations or Contractor use (including non-paved access, staging, the ground beneath the cattail stockpile, the ground beneath any additional stockpile(s) that were created during construction, and haul routes necessary to access sediment application areas).

4. STRAW MULCH


   B. Straw shall be applied at a rate of 3,000 pounds per acre.

   C. Straw shall be applied uniformly.

   D. Contractor should tracked walk straw into the soil or use other methods to secure the straw in place.

END OF SECTION 32 92 19

END DIVISION 32
PART 5 PERMITS
PART 5 PERMITS

1. CEQA and Change of Use Permit
2. CA Coastal Commission and NOAA Restoration Center, Federal Consistency Determination CD-021-13
3. CA Coastal Commission, Amendment to Coastal Development Permit 1-08-012
4. CA Department of Fish and Wildlife, Streambed Alteration Agreement
5. Northcoast Regional Water Quality Control Board, Water Quality Certification
6. US Army Corps of Engineers, Nationwide Permit 27
7. US Fish and Wildlife Service, Concurrence with Not Likely to Adversely Affect Statement
8. National Historic Preservation Office
RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT
Resolution Number 08-93

MAKING THE REQUIRED FINDINGS FOR CERTIFYING COMPLIANCE WITH THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT AND CONDITIONALLY APPROVING THE RCAA CONDITIONAL
USE PERMIT APPLICATION:
CASE NUMBER: CUP-07-22; ASSESSOR PARCEL NUMBER: 402-291-15

WHEREAS, Aldaron Laird, on behalf of the Natural Resources Division of Redwood Community Action
Agency submitted an application and evidence in support of approving a Conditional Use Permit for
wetland enhancement and restoration; and

WHEREAS, the County Planning Division has reviewed the submitted application and evidence and has
referred the application and evidence to involved reviewing agencies for site inspections, comments and
recommendations; and

WHEREAS, the project is subject to environmental review pursuant to of the California Environmental
Quality Act (CEQA); and

WHEREAS, the County Planning Division prepared a Mitigated Negative Declaration for the Planning
Commission's adoption; and

WHEREAS, Attachment 2 in the Planning Division staff report includes evidence in support of making all
of the required findings for approving the Conditional Use Permit for the proposed project;

NOW, THEREFORE, be it resolved, determined, and ordered by the Planning Commission that:
1. The Planning Commission approves the proposed Mitigated Negative Declaration in Attachment 5
as required by Section 15074(b) of the CEQA Guidelines, and finds that there is no substantial
evidence that the proposed project will have a significant effect on the environment.
2. The Planning Commission further makes the findings in Attachment 2 of the Planning Division staff
report for Case Number CUP-07-22 based on the submitted evidence.
3. The Planning Commission approves the Conditional Use Permit as recommended and conditioned
in Attachment 1 for Case Number CUP-07-22.

Adopted after review and consideration of all the evidence on September 4, 2008.
The motion was made by COMMISSIONER HANSIS and seconded by COMMISSIONER GEARHEART.

AYES: Commissioners: GEARHEART, HANSIS, HERMAN, MURGUIA & SMITH
NOES: Commissioners: NONE
ABSTAIN: Commissioners: NONE
ABSENT: Commissioners: EMAD & KELLY

I, Kirk Girard, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the
foregoing to be a true and correct record of the action taken on the above-entitled matter by said
Commission at a meeting held on the date noted above.

Kirk Girard, Director of Community Development Services By: Betty Webb, Clerk

THIS PROJECT IS NOT EFFECTIVE UNTIL ALL APPEAL PERIODS HAVE ENDED.
Hello team,

I am writing to let you know that the Wood Creek Phase II Estuary Restoration Project will be covered under the NOAA Restoration Center's CA Coastal Commission Consistency Determination. Thank you for your patience with this process and I look forward to breaking ground on this project in August.

Thanks and have a great weekend!

Bob
AMENDMENT TO COASTAL DEVELOPMENT PERMIT

August 11, 2016

Coastal Development Permit Amendment No. 1-08-012-A1

Permit Number 1-08-012 issued to Norcoast Regional Land Trust Michael Cipra for:

- Restore tidal hydrology and brackish marsh habitat across 23 to 29 acres of diked former tidelands (seasonal freshwater wetlands) and enhancing 4,500 square feet of juvenile salmonid freshwater rearing habitat along Wood Creek by (1) excavating 2,450 cubic yards of material along 3,900 feet of historic tidal channels within diked former tidelands; (2) excavating 300 cubic yards of berm material along the north bank of Wood Creek; (3) enhancing freshwater habitat on Wood Creek by excavating 380 cubic yards of material to expand and enhance juvenile salmonid freshwater rearing habitat; (4) replacing a culvert crossing on Wood Creek with a flatcar bridge; (5) placing approximately 3,200 cubic yards of excavated material on-site within diked former tidelands to recreate high marsh surfaces and tidal hummocks; (6) removing an existing tidegate on Wood Creek to allow for tidal inundation to the tidal marsh restoration area; (7) sealing a defunct Waterman tidegate located south of the main Wood Creek tidegate in the Freshwater Slough dike; (8) revegetating the tidal marsh restoration area with appropriate native species; and (9) relocating the western alignment of the existing agricultural fence.

at: 5555 Myrtle Ave, Eureka (APN(s): 402-291-15), has been amended to include the following change(s):

- Undertake adaptive management within previously restored areas by (1) spreading approximately 5,500 cubic yards of fill across 6.8 acres of existing degraded pastureland; (2) spreading approximately 1,380 cubic yards of fill material across 1.2 acres of previously restored marsh habitat; and (3) constructing 10 sills within previously restored tidal channels.

This amendment will become effective upon return of a signed copy of this form to the Commission office. Please note that the original permit conditions unaffected by this amendment are still in effect.
COASTAL DEVELOPMENT PERMIT

Sincerely,

John Ainsworth
Acting Executive Director

Melissa Kraemer
Supervising Analyst

ACKNOWLEDGMENT

I have read and understand the above permit and agree to be bound by the conditions as amended of Coastal Development Permit 1-08-012.

Date: 8/11/2016  Signature

Standard Conditions 1-5 and Special Conditions Nos. 1-8 of CDP 1-08-012 remain in full force and effect. Special Conditions 9 through 11 are new special conditions added to the CDP as amended. The conditions are listed below. New language appears as **bold double-underlined.**
AMENDMENT TO COASTAL DEVELOPMENT PERMIT
Coastal Development Permit Amendment No. 1-08-012-A1

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

1. Final Restoration & Enhancement Monitoring Program
   a. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. 1-08-012, the applicant shall submit for review and approval of the Executive Director, a final detailed restoration and enhancement monitoring program designed by a qualified biologist for monitoring of the brackish marsh restoration and juvenile salmonid summer rearing habitat enhancement sites (i.e., 23- to 29-acre brackish marsh restoration area and 4,500-square-foot salmonid rearing habitat). The monitoring program shall at a minimum include the following:
      i. Performance standards that will assure achievement of the restoration goals and objectives set forth in Coastal Development Permit (CDP) Application No. 1-08-012 as summarized in the Findings IV.B, “Project Description;”
      ii. Provisions for submittal within 30 days of completion of the initial restoration and enhancement work of (a) “as built” plans demonstrating that the initial restoration and enhancement work has been completed in accordance with the approved restoration and enhancement program, and (b) an assessment of the initial biological and ecological status of the “as built” restoration/enhancements. The assessment shall include an analysis of the attributes that will be monitored pursuant to the program, with a description of the methods for making that evaluation;
AMENDMENT TO COASTAL DEVELOPMENT PERMIT
Coastal Development Permit Amendment No. 1-08-012-A1

iii. Provisions to ensure that the restoration and enhancement sites will be remediated within one year of a determination by the permittee or the Executive Director that monitoring results indicate that the sites do not meet the goals, objectives, and performance standards identified in the approved restoration/enhancement program and in the approved final monitoring program;

iv. Provisions for monitoring and remediation of the restoration and enhancement sites in accordance with the approved final restoration and enhancement program and the approved final monitoring program for a period of five (5) years;

v. Provisions for submission of annual reports of monitoring results to the Executive Director by November 1 each year for the duration of the required monitoring period, beginning the first year after submission of the “as-built” assessment. Each report shall include copies of all previous reports as appendices. Each report shall also include a “Performance Evaluation” section where information and results from the monitoring program are used to evaluate the status of the wetland restoration/enhancement project in relation to the performance standards;

vi. Provisions for submission of a final monitoring report to the Executive Director at the end of the five-year reporting period. The final report must be prepared in conjunction with a qualified wetlands biologist. The report must evaluate whether the enhancement site conforms with the goals, objectives, and performance standards set forth in the approved final restoration and enhancement program. The report must address all of the monitoring data collected over the five-year period.

b. If the final report indicates that the restoration and enhancement project has been unsuccessful, in part, or in whole, based on the approved goals and objectives set forth in CDP Application No. 1-08-012 as described in Findings IV.B “Project Description,” the applicant shall submit a revised or supplemental restoration and enhancement program to compensate for those portions of the original program which did not meet the approved goals and objectives set forth in CDP Application No. 1-08-012 as described in Finding IV.B “Project Description.” The revised enhancement program shall be processed as an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

c. The permittee shall monitor and remediate the wetland restoration and enhancement sites in accordance with the approved monitoring program. Any proposed changes from the approved monitoring program shall be reported to the Executive Director. No changes to the approved monitoring program shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines no amendment is legally required.

2. **Construction Responsibilities.** The permittee shall comply with the mitigation measures listed in the Mitigated Negative Declaration completed for the project, except as modified herein. Construction-related requirements shall include, but shall not be limited to, the following Best Management Practices (BMPs):

a. No construction materials, debris, or waste shall be placed or stored where it may be subject to entering coastal waters or wetlands;
AMENDMENT TO COASTAL DEVELOPMENT PERMIT
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b. Any and all debris resulting from construction activities shall be removed from the project site within 10 days of project completion and disposed of at an authorized location;
c. All grading activities shall be conducted during the dry season period of June 1 through November 15; any grading activity conducted between October 16 and November 15 shall be subject to the following conditions:
i. All work shall cease upon the onset of precipitation at the project site and shall not recommence until the predicted chance of rain is less than 50 percent for the Eureka area portion of the Redwood Coast segment of the National Weather Service’s forecast for Northwestern California;
ii. The work site(s) shall be winterized between work cessation periods by installing stormwater runoff and erosion control barriers around the perimeter of the construction site to prevent the entrainment of sediment into coastal waters; and
iii. Adequate stocks of stormwater runoff and erosion control barrier materials shall be kept onsite and made available for immediate use.
d. Construction activities within and adjacent to the creek shall only be performed during low tide and when soils are sufficiently dry so that sediment is not discharged into coastal waters;
e. If rainfall is forecast during the time construction activities are being performed, any exposed soil areas shall be promptly mulched or covered with plastic sheeting and secured with sand bagging or other appropriate materials before the onset of precipitation;
f. Any debris discharged into coastal waters shall be recovered immediately and disposed of properly;
g. Any fueling and maintenance of construction equipment shall occur within upland areas outside of environmentally sensitive habitat areas or within designated staging areas. Mechanized heavy equipment and other vehicles used during the construction process shall not be stored or re-fueled within 100 feet of coastal waters; and
h. Fuels, lubricants, and solvents shall not be allowed to enter the coastal waters or wetlands. Hazardous materials management equipment including oil containment booms and absorbent pads shall be available immediately on-hand at the project site, and a registered first-response, professional hazardous materials clean-up/remediation service shall be locally available on call. Any accidental spill shall be rapidly contained and cleaned up.

3. Final Storm Water Pollution Prevention Plan
a. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. 1-08-012, the applicant shall submit for the review and approval of the Executive Director a final Storm Water Pollution Prevention Plan that substantially conforms to the draft plan prepared by Redwood Community Action Agency, dated July 25, 2008 (Exhibit No. 11).
b. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.
4. **Site Revegetation.** The wetland restoration and enhancement sites shall be revegetated as proposed and shall comply with the following standards and limitations:
   a. Only native plant species shall be planted. All proposed plantings shall be obtained from local genetic stocks within Humboldt County. If documentation is provided to the Executive Director that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside of the local area may be used. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California, shall be employed or allowed to naturalize or persist on the site. No plant species listed as a "noxious weed" by the governments of the State of California or the United States shall be utilized within the property;
   b. All planting shall be completed by the end of the first full optimal planting season (generally March 1 to May 1) that occurs after completion of construction;
   c. The use of rodenticides containing any anticoagulant compounds, including, but not limited to, Bromadiolone, Brodifacoum or Diphacinone shall not be used.

5. **Implementation of Sensitive Plant & Fish Species Mitigation Measures.** The permittee shall undertake all development authorized by CDP No. 1-08-012 in accordance with the measures and protocols proposed in the application [summarized in Findings IV-B and IV-C below and included within the final Mitigated Negative Declaration for the project, the Wood Creek Tidal Marsh Enhancement Project Biological Assessment dated October 2007, the NOAA-Fisheries informal consultation letter dated July 11, 2008 (File No. 2008/04085), the U.S. Fish and Wildlife Service informal consultation letter dated April 30, 2008 (File No. 81331-2008-I-0217), and the Department of Fish and Game Streambed Alteration Agreement issued for the project (#R-1-08-0103)] to ensure minimization of impacts to Lyngbya's sedge, Tidewater goby, sensitive salmonids, and sensitive fish critical habitat within and around the project area.

6. **Protection of Archaeological Resources**
   a. If an area of historic or prehistoric cultural resources or human remains are discovered during the course of the project, all construction shall cease and shall not recommence except as provided in subsection (B) hereof, and a qualified cultural resource specialist shall analyze the significance of the find.
   b. A permittee seeking to recommence construction following discovery of the cultural deposits shall submit an archaeological plan for the review and approval of the Executive Director.
      i. If the Executive Director approves the Archaeological Plan and determines that the Archaeological Plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after this determination is made by the Executive Director.
      ii. If the Executive Director approves the Archaeological Plan but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission.
7. **North Coast Regional Water Quality Control Board Approval.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. 1-08-012, the applicant shall provide to the Executive Director a copy of a permit or other permission issued by the North Coast Regional Water Quality Control Board, or evidence that no permit is required. The applicant shall inform the Executive Director of any changes to the project required by the Board. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

8. **State Lands Commission Review.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. 1-08-012, the applicant shall submit to the Executive Director, a written determination from the State Lands Commission that:
   a. No State lands are involved in the development; or
   b. State lands are involved in the development and all permits required by the State Lands Commission have been obtained; or
   c. State lands may be involved in the development, but pending a final determination an agreement has been made with the State Lands Commission for the project to proceed without prejudice to that determination.

9. **Submission of Final Revised Planting and Monitoring Program**
   a. PRIOR TO COMMENCEMENT OF CONSTRUCTION OF DEVELOPMENT AUTHORIZED BY COASTAL DEVELOPMENT PERMIT AMENDMENT 1-08-012-A1, the Applicant shall provide, for the review and approval of the Executive Director, a final revised planting and monitoring plan for the combined 8-acre brackish marsh restoration area comprising both the pasture and non-pasture lands generally depicted on Page 6 of 7 of Exhibit 4. The final revised plan shall conform with the plan prepared by the Northcoast Regional Land Trust titled “Phase 1 Adaptive Management Area Wood Creek Aquatic Habitat Enhancement Project” dated May 2016, as modified by the Applicant’s updated project description dated July 20, 2016, except that the plan shall be revised to include all of the following:
      i. A final revised grazing monitoring plan consistent with the requirements of Special Condition 10;
      ii. A fencing plan showing the type and location of wildlife-friendly fencing that shall be used to exclude cattle and other agricultural activities from the brackish marsh restoration area consistent with Special Condition 10;
      iii. Interim success criteria for total vegetation cover and total native plant cover to help ensure that the restoration area will attain the approved final performance standards of at least 90% total plant cover and at least 50% cover by native plants within the brackish marsh restoration area. Interim success criteria shall be developed for all of the following:
         (1) The plan shall specify success criteria for Year 2 for total vegetation cover and total native plant cover (i.e., specify coverages to be attained by the end of the second year following restoration implementation);
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(2) The plan shall include contingency interim success criteria to be monitored in Years 3 and 4 if the Year 2 interim success criteria are not met; and
(3) The plan shall include criteria for assessing effects of grazing on vegetation performance goals consistent with Special Condition 10(a)(vi) below:

iv. Provisions for completion of a wetland delineation within the restored brackish marsh areas in the 5th -year following completion of restoration activities to verify the wetland status of the fill areas within the pasture and within the previously restored brackish marsh habitat;

v. Requirements for remediation should the restoration area(s) not meet the approved performance standards, which include, but are not limited to: (1) establishment of hydrologic conditions to support brackish tidal marsh in the restoration areas; (2) a minimum of 90% total plant cover and 50% native plant cover in the restored brackish marsh habitats by Year 5; and (3) that the 6.8-acre fill area within the pasture and the 1.2-acre fill area within the previously-restored brackish marsh delineate as brackish marsh wetlands based on a final wetland delineation. Remediation shall include a requirement that the permittee submit a remediation plan to the Executive Director that recommends further action and provides a timeline for additional monitoring and reporting. The remediation plan and results of post-remediation monitoring shall be processed as an amendment to this CDP, unless the Executive Director determines that no amendment is legally required.

vi. A reporting program for submittal of hard copies of all required monitoring reports to the Executive Director with the following minimum contents and according to the following schedule: (1) annual monitoring reports that include the dates, methods, and results of maintenance activities and monitoring, including an assessment of restoration success relative to the established criteria shall be provided by December 31st of each monitoring year beginning in the first calendar year following completion of the authorized restoration work; (2) a final monitoring report that includes, in addition to the annual monitoring dates, methods, and results, an assessment of the restoration success overall relative to the approved final performance standards identified in subsection (iii) above shall be provided by December 31st of the 5th-monitoring year following completion of the authorized restoration work; and (3) pre- and post-grazing monitoring reports consistent with Special Condition 10.

b. The permittee shall plant and monitor the project site in accordance with the approved final plan. No changes to the approved final plan may occur without an amendment to this permit unless the Executive Director determines that no amendment is legally required.

10. Grazing Monitoring Plan and Grazing Limitations within the Brackish Marsh Restoration Area

a. PRIOR TO COMMENCEMENT OF CONSTRUCTION OF DEVELOPMENT AUTHORIZED BY COASTAL DEVELOPMENT PERMIT AMENDMENT 1-08-012-A1, the Applicant shall provide, for the review and approval of the Executive
Director, a final revised grazing monitoring plan ("Revised Plan") for the 5-year monitoring period for the 6.8-acre brackish marsh restoration area generally depicted on Exhibit 4 that indicates whether limited “flash grazing” of the area by livestock will be used as a tool for the control of invasive species during the 5-year monitoring period. If “flash grazing” will occur within the 6.8-acre brackish marsh restoration area generally depicted on Exhibit 4 during the 5-year monitoring period, then the Revised Plan shall conform with the plan prepared by the Northeast Regional Land Trust titled “Phase 1 Adaptive Management Area Wood Creek Aquatic Habitat Enhancement Project” dated May 2016, as modified by the Applicant’s updated project description dated July 20, 2016, except the Revised Plan shall include the following provisions:

i. A fencing plan showing the design and location of fencing to be used to exclude all other agricultural activities from the 6.8-acre brackish marsh restoration area. The fencing shall be wire livestock fencing with sufficient openings above the ground to allow for the passage of small mammals and other small wildlife.

ii. Following implementation of restoration activities and for the duration of the monitoring period, each instance of grazing (hereafter "grazing event") within the 6.8-acre brackish marsh restoration area shall follow the pre-grazing and post-grazing monitoring protocols for tidal pooling and plant coverage thresholds specified below.

iii. During restoration of the 6.8-acre brackish marsh area, a grazing event may occur within the 6.8-acre brackish marsh restoration area only after the interim success standards have been met for minimum total plant coverage and for minimum native plant coverage consistent with Special Condition 9(a)(iii) above and only under the following grazing limitations: (1) there is no tidal inundation within the 6.8-acre brackish marsh restoration area; (2) at least 5 days have passed since tidal inundation has occurred in the area or the ground is sufficiently dry to minimize the potential for ground disturbance; (3) no rain is forecast and no tides are predicted for the area for the duration of the grazing event; and (4) grazing shall be monitored and cows shall be removed once vegetation is grazed to 3 inches in height, which is the minimum height required to prevent vegetation drying out and to prevent bare spots from developing.

iv. Prior to instituting a grazing event within the 6.8-acre brackish marsh restoration area, pre-grazing quantitative monitoring of coverage of tidal pooling within the 6.8-acre brackish marsh restoration area shall occur 1 to 2 days after a spring tide event that is high enough to inundate at least 80% of the 6.8-acre brackish marsh restoration area.

v. After each grazing event within the 6.8-acre brackish marsh restoration area, post-grazing quantitative monitoring of the coverage of tidal pooling within the 6.8-acre brackish marsh restoration area shall occur 1 to 2 days after the first high tide event that is high enough to inundate at least 80% of the 6.8-acre brackish marsh restoration area.

vi. The Revised Plan shall specify that quantitative vegetation monitoring shall occur in each monitoring year following a grazing event to assess the status of the
approved vegetation performance goals identified in the final planting and monitoring plan required by Special Condition 9. Minimum success criteria for each year following a grazing event shall demonstrate both (1) that total coverage of plants in the 6.8-acre brackish marsh restoration area is equal to or greater than the total plant coverage recorded prior to the previous year's grazing event(s); and (2) that the total coverage of native plants in the 6.8-acre brackish marsh restoration area is equal to or greater than the total native plant coverage recorded prior to the previous year's grazing event(s).

vii. The Revised Plan shall include a reporting program for submittal of hard copies of all required monitoring reports to the Executive Director with the following minimum contents and according to the following schedule: (1) pre-grazing monitoring reports shall be provided at least one week prior to planned grazing events in the 6.8-acre brackish marsh restoration area during the 5-year restoration monitoring period and shall include evidence of compliance with subsection (iii) above and shall include a quantitative estimate of pre-grazing tidal pooling consistent with subsection (iv) above; (2) post-grazing monitoring reports shall be provided within 90 days of completion of the post-grazing monitoring and shall document the post-grazing tidal pooling coverage consistent with subsection (v) above.

viii. If post-grazing monitoring shows that there has been an increase in coverage of tidal pooling by more than 10% above the documented pre-grazing tidal pooling coverage: (1) a biologist shall assess the brackish marsh habitat and provides recommendations for remediation; (2) the permittee shall provide a supplemental grazing and monitoring plan (“Supplemental Plan”) that includes recommendations for (A) remediation of any habitat areas damaged by grazing as recommended by a qualified biologist, and (B) appropriate changes to the grazing limitations of subsection (iii) above within the restored brackish marsh habitat to avoid impacts to brackish marsh habitat from continued grazing in the future; and (3) the Supplemental Plan shall be processed as an amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

b. After the restoration and 5-year monitoring periods have concluded, and after any required Supplemental Plan has been prepared and processed pursuant to Subsection (a)(viii) above, grazing the 6.8-acre brackish marsh restoration area generally depicted on Exhibit 4 shall occur consistent with the best grazing practices proposed in the addendum to the CDP amendment application submitted by the Northeast Regional Land Trust dated July 20, 2016, as modified by this condition. The intent of the proposed best grazing practices is to ensure the ongoing protection of the downstream salmonid habitat and the maintenance of the biological productivity of the restored brackish marsh restoration area. The best grazing practices shall include the following: (i) grazing within the 6.8-acre restoration area shall occur using a controlled rotational grazing regime and paddocks to confine livestock to a maximum intensity of 25 cows per 4.5-acre paddock for a maximum of 5 days in a manner that ensures vegetation heights remain at or above 3 inches, which is the minimum height
required to prevent vegetation drying out and to prevent bare spots from developing; (ii) grazing shall be monitored and cows shall be removed once vegetation is grazed to 3 inches in height; (iii) grazing shall be limited to the dry season period of May 15 through October 15; and (iv) grazing shall occur consistent with all applicable recommendations set forth in the Supplemental Plan required by Subsection (a)(viii) above.

c. The permittee shall undertake development in accordance with the approved Revised and Supplemental Plans as well as the best grazing practices identified herein. No changes to any of these grazing requirements, including but not limited to any increase in the intensity of grazing or change in the timing of grazing events, may occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

11. Construction Responsibilities for Development Authorized Under CDP Amendment No. 1-08-012-A1:

a. Timing of Construction: Construction shall occur only between July 1st and November 15th and only when the ground surface is dry, except as provided below, to minimize ground disturbance and reduce the potential for stormwater runoff occurring during construction. Any grading, excavation, and other earth-moving activities conducted between October 15th and November 15 shall be subject to the following conditions: (i) Upon the onset of precipitation at the project site, all work shall cease and shall not recommence until the predicted chance of rain is less than 40 percent for the Eureka area based on National Weather Service forecasts. (ii) The work site(s) shall be winterized between work cessation periods by installing stormwater runoff and erosion control barriers around the perimeter of each construction site to prevent the entainment of sediment into coastal waters. (iii) Adequate stocks of stormwater runoff and erosion control barrier materials shall be kept onsite and made available for immediate use;

b. Heavy Equipment BMPs: (i) Fuels, lubricants, and solvents shall not be allowed to enter coastal waters. (ii) All equipment shall be inspected for leaks prior to commencing work. (iii) Spill kits equipped with enough material to provide preliminary containment for a volume of material that can reasonably be expected to spill shall be maintained on the site. (iv) A registered first-response, professional hazardous materials clean-up/remediation service shall be locally available on call. (v) Any accidental spill shall be rapidly contained and cleaned up. (vi) There shall be no on-site fueling or washing of heavy equipment, and stationary equipment shall be positioned over drip pans to collect any inadvertent leaks that may occur. (vii) Development shall minimize land disturbance during construction by confining the project footprint to the maximum extent feasible and by using only designated access corridors to and between work sites. (viii) Construction access paths through areas having wet or soft soils shall use heavy synthetic mats or other acceptable non-toxic materials that can be readily laid down and immediately removed following construction;
c. Fish and Water Quality Protection: (i) In-channel work (i.e., installation of sills and temporary sediment plugs within previously restored tidal channels) shall be performed during periods of low tides only and after fish relocation has been completed under the supervision of a qualified fisheries biologist. (ii) A qualified biologist in consultation with CDFW and NOAA-Fisheries staff shall appropriately use seining, dip nets, electrofishing, or other trapping procedures to transfer aquatic organisms out of the work area to suitable locations downstream in Wood Creek. (iii) Prior to sill construction within the previously restored tidal channels, temporary sediment plugs shall be installed at the mouth of each of the previously restored tidal channels to an elevation of 8.1 feet (NAVD88) to effectively separate channels from the main stem of the creek. (iv) Plugs shall remain in place until construction of the log and earthen sills is complete. (v) Following completion of sill construction plugs shall be removed during the next period of neap tide with daily tides at a maximum of 7 feet (NAVD88) and during rising tides to minimize the potential for water quality impacts within the main stem of the creek.

d. Runoff, Erosion, and Sediment Control BMPs; Development shall minimize site runoff and erosion and the discharge of sediment and other potential pollutants resulting from construction activities (e.g., chemicals, vehicle fluids, petroleum products, cement, debris, and trash) through the use of appropriate temporary BMPs such as mulching, soil binders, erosion control blankets, silt fences, and temporary reseeding. The use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate plastic netting (such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers) is prohibited in order to minimize wildlife entanglement and plastic debris pollution.

e. Waste Management: (i) During construction, all trash shall be properly contained, removed from the work site, and disposed of on a regular basis to avoid contamination of habitat. (ii) Except as authorized by CDP Amendment No. 1-08-012-A1, no construction materials, debris, or waste of any kind shall be placed or stored where it may be subject to entering coastal waters. (iii) All materials and debris stockpiled onsite shall be contained at all times, and covered with tarps or plastic sheeting during high winds and/or precipitation. (iv) Debris, waste, and other excess material generated by the authorized work shall be lawfully disposed of outside of the coastal zone at an authorized disposal site capable of receiving such materials within 10 days of project completion. (v) Side casting or placing any construction debris or any other debris or waste within any wetland or environmentally sensitive habitat area is prohibited.
CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
REGION 1 – NORTHERN REGION
619 Second Street
Eureka, CA 95501

STREAMBED ALTERATION AGREEMENT
NOTIFICATION NO. 1600-2016-0063-R1
Wood Creek, Tributary to the Freshwater Slough, Tributary to Humboldt Bay and the Pacific Ocean

Mr. Michael Cipra
Wood Creek Restoration Project
1 Encroachment

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and Mr. Michael Cipra (Permittee).

RECOLTALS

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, the Permittee initially notified CDFW on February 19, 2016, that the Permittee intends to complete the project described herein.

WHEREAS, pursuant to FGC section 1603, CDFW has determined that the project could substantially adversely affect existing fish or wildlife resources and has included measures in the Agreement necessary to protect those resources.

WHEREAS, the Permittee has reviewed the Agreement and accepts its terms and conditions, including the measures to protect fish and wildlife resources.

NOW THEREFORE, the Permittee agrees to complete the project in accordance with the Agreement.

PROJECT LOCATION

The project to be completed is located within the Freshwater Slough watershed, approximately 2 miles southeast of the city of Eureka, County of Humboldt, State of California. The project is located in Section 29, T5N, R1E, Humboldt Base and Meridian; in the Arcata South U.S. Geological Survey 7.5-minute quadrangle; Assessor’s Parcel Numbers 402-291-15 and 402-241-09; latitude 40.7842 N and longitude 124.0935 W.

PROJECT DESCRIPTION

The project is limited to one encroachment that includes elements of the project divided between Phase I and Phase II. Phase I was completed in 2010 and includes ongoing assessment of success and adaptive management. Phase II is focused on creation of
off-channel winter rearing habitat specific to coho salmon. The Phase II project will create approximately 3.5 acres of slough channels, pools, and seasonably available off-channel habitat. To complete this project, approximately 8,230 cubic yards of material will be excavated to create the 3.5 acres of pond and slough habitat. Construction of the Phase II ponds will be conducted with sediment plugs at the connection to Wood Creek to minimize fine sediment delivery during the construction process. The removal of the sediment plugs will occur prior to the incoming tide to redistribute any fines back into the excavated area of Phase II. To enhance the pool and slough habitat, large wood structures will be placed throughout the excavated area to provide habitat complexity and cover. Approximately 1780 cubic yards of the excavated fill will be prepositioned in Phase II footprint to create planting hummocks and island features. Planting of the repositioned fill will occur consistent with the Phase II Planting and Monitoring Plan.

Adaptive management within the Phase I footprint will include the installation of 7 compacted earthen sills and 3 log sills within the tidal channel networks to prevent fish stranding. The sills will be located approximately one foot elevation above the lowest point in the channel. Construction of the sills will occur during the neap low tides when the channels are free of water. In addition, approximately 6450 cubic yards of fill will be placed in the Phase I project area at depths from 0.2 to 1.6 feet to improve topography and drainage with the intent to transform existing mud flat to salt marsh. The filled areas in the Phase I footprint will be replanted following the process outlined in the Phase I Adaptive Management Area Planting and Monitoring Plan.

PROJECT IMPACTS

Existing fish or wildlife resources the project could substantially adversely affect include: Chinook salmon (*Oncorhynchus tshawytscha*), coho salmon (*O. kisutch*), steelhead trout (*O. mykiss*), amphibians, reptiles, aquatic invertebrates, mammals, birds, and other aquatic and riparian species.

The adverse effects the project could have on the fish or wildlife resources identified above include:

**Impacts to bed, channel, or bank and effects on habitat structure:**
- soil compaction or other disturbance to soil layer;
- temporary increase in fine sediment transport;

**Impacts to water quality:**
- temporary increased turbidity;

**Impacts to bed, channel, or bank and direct effects on fish, wildlife, and their habitat:**
- direct impacts on benthic organisms;
MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

1. Administrative Measures

The Permittee shall meet each administrative requirement described below.

1.1 Documentation at Project Site. The Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to CDFW personnel, or personnel from another state, federal, or local agency upon request.

1.2 Providing Agreement to Persons at Project Site. The Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of the Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.

1.3 Change of Conditions and Need to Cease Operations. If conditions arise, or change, in such a manner as to be considered deleterious to the stream or wildlife, operations shall cease until corrective measures approved by CDFW are taken. This includes new information becoming available that indicates that the bypass flows and diversion rates provided in this agreement are not providing adequate protection to keep aquatic life downstream in good condition or to avoid “take” or “incidental take” of federal or State listed species.

1.4 Notification of Conflicting Provisions. The Permittee shall notify CDFW if the Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, CDFW shall contact the Permittee to resolve any conflict.

1.5 Project Site Entry. The Permittee agrees to allow CDFW employees access to any property it owns and/or manages for the purpose of inspecting and/or monitoring the activities covered by this Agreement, provided CDFW: a) provides 24 hours advance notice; and b) allows the Permittee or representatives to participate in the inspection and/or monitoring. This condition does not apply to CDFW enforcement personnel.

2. Avoidance and Minimization Measures

To avoid or minimize adverse impacts to fish and wildlife resources identified above, the Permittee shall implement each measure listed below.

2.1 Permitted Project Activities. Except where otherwise stipulated in this Agreement, all work shall be in accordance with the Permittee Notification received with fees
paid in full on February 19, 2016, together with all maps, BMP's, photographs, drawings, and other supporting documents submitted with the Notification.

2.2 **Work Period.** All work shall be confined to the period August 1 through October 15 of each year. Excavation work shall be restricted to periods of **dry weather.** Precipitation forecasts and potential increases in stream flow shall be considered when planning construction activities. Construction activities shall cease and all necessary erosion control measures shall be implemented prior to the onset of precipitation.

2.3 **Extension of the Work Period.** If weather conditions permit, and the Permittee wishes to extend work after October 15, a written request shall be made to CDFW at least 5 working days before the proposed work period variance. Written approval (letter, e-mail, or fax) for the proposed time extension must be received from CDFW before work begins within the extension period.

2.4 **Nesting Birds.** To protect nesting birds, no project activities shall occur from March 1 through July 31. This Agreement does not allow the Permittee, any employees, or agents to destroy or disturb any active bird nest (Section 3503 Fish and Game Code) or any raptor nest (Section 3503.5) at any time of the year.

2.5 **On-site Biologist with Stopwork Authorization.** The Permittee shall have a qualified biologist on site daily during project activity to ensure that Agreement conditions are being met and minimize impacts to fish and wildlife habitat. The biologist shall be authorized to stop construction if necessary to protect fish and wildlife resources. If any sensitive State listed Species of Special Concern, or threatened or endangered species, are found the biologist shall inform CDFW. If there is a threat of harm to any sensitive species, or other aquatic wildlife the biologist shall halt construction and notify (or leave a message for) the LSA Program (707-441-2075). Consultation with CDFW is required before recommencing work.

2.6 **Vegetation Disturbance.** Vegetation disturbance shall not exceed the minimum necessary to perform the work.

2.7 **Revegetation Plan.** At least thirty (30) days prior to the commencement of the revegetation activities, the Permittee shall submit the Revegetation Plan to CDFW for review and written approval. The revegetation plan shall include a plant palette of species to be used in revegetation, success criteria, monitoring & reporting, and corrective actions to be taken when mitigation measures do not meet the proposed success criteria. The revegetation plan shall ensure no net loss of habitat or fish and wildlife resource values.

2.8 **Excavated Fill.** Excavated fill material shall be placed in locations where it cannot deliver to a watercourse. To minimize the potential for material to enter the watercourse during the winter period, all excavated and relocated fill material shall
be tractor contoured (to drain water) and tractor compacted to effectively incorporate and stabilize loose material into existing road and/or landing features.

2.9 **Till Compacted Areas.** Upon completion of the project, all areas at the project site that were compacted by project activity shall be thoroughly tilled to a depth of at least one (1) inch by disk ing, harrowing, or other approved methods until the site is suitable for replanting or reseeding.

2.10 **Stream Protection.** No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other deleterious material from project activities shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into the stream. All project materials and debris shall be removed from the project site and properly disposed of off-site upon project completion.

2.11 **Excavation Equipment.** Prior to working within the stream, all equipment shall be closely examined for oil and fuel discharges. Any contaminants shall be cleaned prior to any work within a streambed and shall be maintained daily. In addition, equipment shall be cleaned daily to ensure non-natives are not introduced into mitigation areas, or spread throughout Project sites.

2.12 **Operating Equipment and Vehicle Leaks.** Any equipment or vehicles driven and/or operated within or adjacent to the stream/lake shall be checked and maintained daily to prevent leaks of materials that could be deleterious to aquatic and terrestrial life or riparian habitat.

2.13 **Equipment Maintenance and Fueling.** No equipment maintenance or fueling shall be done within or near any stream channel or lake margin where petroleum products or other pollutants from the equipment may enter these areas.

2.14 **Staging and Storage Areas.** Staging and storage areas for equipment, materials, fuels, lubricants, and solvents shall be located more than twenty (20) feet from the stream channel and banks. All equipment and fuel stored on site shall be bermed to contain any spilled material and shall be protected from rain. Berms shall consist of plastic covered dirt or sand bags.

2.15 **Equipment Maintenance.** Refueling of machinery or heavy equipment, or adding or draining oil, lubricants, coolants or hydraulic fluids shall not take place within stream bed, channel and bank. All such fluids and containers shall be disposed of properly off-site. Heavy equipment used or stored within stream bed, channel and bank shall use drip pans or other devices (e.g., absorbent blankets, sheet barriers or other materials) as needed to prevent soil and water contamination.

2.16 **Clean Up Equipment.** Clean up equipment such as extra boom, absorbent pads, skimmers, shall be on site prior to the start of dredging.
2.17 **Hazardous Spills.** Any material, which could be hazardous or toxic to aquatic life and enters a stream (i.e. a piece of equipment tipping-over in a stream and dumping oil, fuel or hydraulic fluid), the Permittee shall immediately notify the California Emergency Management Agency State Warning Center at 1-800-852-7550, and immediately initiate clean-up activities. CDFW shall be notified by the Permittee within 24 hours at 707-445-6493 and consulted regarding clean-up procedures.

3. **Reporting Measures**

3.1 **Revegetation Plan.** The revegetation plan shall be submitted to CDFW for approval prior to project implementation. The Revegetation Plan shall be mailed to the LSA Program at 619 2nd Street, Eureka, CA 95501.

3.2 **CONTACT INFORMATION**

Written communication that the Permittee or CDFW submits to the other shall be delivered to the address below unless the Permittee or CDFW specifies otherwise.

**To Permittee:**

Mr. Michael Cipra  
Northcoast Regional Land Trust  
P.O. Box 398  
Bayside, California 95524

**To CDFW:**

Department of Fish and Wildlife  
Northern Region  
619 Second Street  
Eureka, California 95501  
Attn: Lake and Streambed Alteration Program  
Notification #1600-2016-0063-R1

**LIABILITY**

The Permittee shall be solely liable for any violation of the Agreement, whether committed by the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents or contractors and subcontractors, to complete the project or any activity related to it that the Agreement authorizes.

This Agreement does not constitute CDFW's endorsement of, or require the Permittee to proceed with the project. The decision to proceed with the project is the Permittee's alone.
SUSPENSION AND REVOCATION

CDFW may suspend or revoke in its entirety this Agreement if it determines that the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, is not in compliance with the Agreement.

Before CDFW suspends or revokes the Agreement, it shall provide the Permittee written notice by certified or registered mail that it intends to suspend or revoke. The notice shall state the reason(s) for the proposed suspension or revocation, provide the Permittee an opportunity to correct any deficiency before CDFW suspends or revokes the Agreement, and include instructions to the Permittee, if necessary, including but not limited to a directive to immediately cease the specific activity or activities that caused CDFW to issue the notice.

ENFORCEMENT

Nothing in the Agreement precludes CDFW from pursuing an enforcement action against the Permittee instead of, or in addition to, suspending or revoking the Agreement.

Nothing in the Agreement limits or otherwise affects CDFW's enforcement authority or that of its enforcement personnel.

OTHER LEGAL OBLIGATIONS

This Agreement does not relieve the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from obtaining any other permits or authorizations that might be required under other federal, state, or local laws or regulations before beginning the project or an activity related to it.

This Agreement does not relieve the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with other applicable statutes in the FGC including, but not limited to, FGC sections 2050 et seq. (threatened and endangered species), 3503 (bird nests and eggs), 3503.5 (birds of prey), 5650 (water pollution), 5652 (refuse disposal into water), 5901 (fish passage), 5937 (sufficient water for fish), and 5948 (obstruction of stream).

Nothing in the Agreement authorizes the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, to trespass.
AMENDMENT

CDFW may amend the Agreement at any time during its term if CDFW determines the amendment is necessary to protect an existing fish or wildlife resource.

The Permittee may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by CDFW and the Permittee. To request an amendment, the Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the corresponding amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

TRANSFER AND ASSIGNMENT

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of the Agreement to another entity shall not be valid or effective, unless the transfer or assignment is requested by the Permittee in writing, as specified below, and thereafter CDFW approves the transfer or assignment in writing.

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, the Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the minor amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

EXTENSIONS

In accordance with FGC section 1605(b), the Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement’s term. To request an extension, the Permittee shall submit to CDFW a completed CDFW "Request to Extend Lake or Streambed Alteration" form and include with the completed form payment of the extension fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). CDFW shall process the extension request in accordance with FGC 1605(b) through (e).

If the Permittee fails to submit a request to extend the Agreement prior to its expiration, the Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (FGC section 1605(f)).

EFFECTIVE DATE

The Agreement becomes effective on the date of CDFW's signature, which shall be: 1) after the Permittee signature; 2) after CDFW complies with all applicable requirements
under the California Environmental Quality Act (CEQA); and 3) after payment of the applicable FGC section 711.4 filing fee listed at http://www.wildlife.ca.gov/habcon/ceqa/ceqa_changes.html.

TERM

This Agreement shall expire five years from date of execution, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. The Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as FGC section 1605(a)(2) requires.

AUTHORITY

If the person signing the Agreement (signatory) is doing so as a representative of the Permittee, the signatory hereby acknowledges that he or she is doing so on the Permittee’s behalf and represents and warrants that he or she has the authority to legally bind the Permittee to the provisions herein.

AUTHORIZATION

This Agreement authorizes only the project described herein. If the Permittee begins or completes a project different from the project the Agreement authorizes, the Permittee may be subject to civil or criminal prosecution for failing to notify CDFW in accordance with FGC section 1602.
CONCURRENCE

The undersigned accepts and agrees to comply with all provisions contained herein.

FOR Mr. Michael Cipra

[Signature]
Michael Cipra

5/23/2016
Date

FOR DEPARTMENT OF FISH AND WILDLIFE

[Signature]
Gordon Leppig
Senior Environmental Scientist Supervisor

5/31/16
Date

Prepared by: David Manthorne, Environmental Scientist, May 5, 2016
In the Matter of

Water Quality Certification

for the

Wood Creek Aquatic Habitat Enhancement Project, Phase II

APPLICANT: North Coast Regional Land Trust
RECEIVING WATER: Wood Creek
HYDROLOGIC UNIT: Eureka Plain Hydrologic Unit, No. 110.00
COUNTY: Humboldt
FILES: Wood Creek Aquatic Enhancement Project, Phase II;
ECM PIN CW-823053, WDID No. 1B16213WNHU

FINDINGS BY THE EXECUTIVE OFFICER:

1. On March 11, 2016, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from the North Coast Regional Land Trust (Applicant), requesting Federal Clean Water Act, section 401, Water Quality Certification (certification) for activities related to the proposed Wood Creek Aquatic Enhancement Project, Phase II (Project).

2. **Public Notice:** Information describing the Project was noticed for public comment on the Regional Water Board’s website on May 5, 2016. No comments were received.

3. **Receiving Waters:** The proposed Project will cause disturbances to jurisdictional wetlands and waters in the Eureka Plain. Jurisdictional waters within the Project limits include Wood Creek.
4. **Project Description:** The Project purpose is to restore salmonid rearing habitat in Humboldt Bay, including Southern Oregon/Northern California Coast coho, Chinook salmon, and steelhead trout. The Project area is located within an approximately 21-acre area north of and adjacent to Wood Creek, and directly to the north of Myrtle Avenue, at the northern terminus of Felt Road. Wood Creek enters Freshwater Creek approximately 0.2 miles downgradient of the Project area.

The Regional Water Board issued Clean Water Act section 401 water quality certification for the related Wood Creek Tidal Marsh Enhancement Project, Phase I, on September 9, 2008, which expired on September 9, 2013. This Project proposes to continue restoration actions to the east of and directly upstream from the Phase I activities. This certification also authorizes adaptive management measures within the Phase I wetland areas. Proposed Project activities include:

As part of Phase II restoration, approximately 8,200 cubic yards will be excavated from the existing cattail marsh and wetland pasture to create approximately 3.54 acres of channel, pool, and wetland habitat features that would hydraulically connect to the existing Wood Creek channel;

As part of Phase II restoration, approximately 1.87 acres of topographically diverse planting hummocks and interconnected, shallow, seasonally-flooded wetlands will be created and serve as habitat for shorebirds, migratory birds, and native plant and animal species. Approximately 1,800 cubic yards of material generated during excavation would be used for this activity. The remainder of the excavated material would be transported to the Phase I project area to restore salt marsh habitat that had been incidentally converted to salt panne as a result of Phase I implementation;

Adaptive management alterations will be made to the Wood Creek Phase I area, including reed canary grass removal, salt marsh restoration as mentioned above, and creation of seven compacted earth sills and three log sills to prevent fish stranding during seasonal or tidal variations in water levels;

Six logs, eighteen logs with rootwad, thirteen base logs in jam structures, three whole trees with intact crowns, and four low-head wood structures will be placed in excavated slough channels to provide habitat complexity; and

Temporary vehicle access routes and a staging area will be constructed to accommodate construction operations. These areas will be de-compacted upon completion, as appropriate.

Vegetation will be monitored over a five year period and fisheries and water quality monitoring will occur over a two year period. Fisheries and water quality monitoring will be implemented as described in the document entitled, *Wood Creek Phase II Monitoring Plan for Inclusion under CD-021-13*. This document was submitted to the Regional Water Board via e-mail from National Marine Fisheries Service staff on May 24, 2016.
5. **Construction Timing:** The Project is expected to be completed in two construction seasons, between July 1, 2016, and October 31, 2016, and between September 15, 2017, and October 15, 2017.

6. **Project Impacts:** Approximately 15 acres of jurisdictional wetlands would be disturbed as a result of Project implementation due to: excavation of material to create slough channels, pools, and wetland habitat; use of excavated material to create planting hummocks and island habitat; equipment staging and operation; placement of earth and log sills in channels; and placement of large woody debris for aquatic habitat.

7. **Avoidance and Minimization:** Construction would occur only between July 1 and October 31. Areas identified as wet or soft soils would be covered with load-distributive mats or geotextile and gravel as appropriate to minimize wetland compaction. An existing, partially continuous berm between the active construction area and Wood Creek would temporarily be made continuous to isolate the construction area and prevent potential sediment discharges.

8. **Mitigation for Project Impacts:** Mitigation is not required for this Project because the primary Project purpose is restoration.

9. **Disturbed Soil Area:** Prior to construction, the Applicant shall submit an erosion, sediment, and pollution control plan (Plan), detailing best management practices to prevent discharges of sediment and construction-related pollutants to Wood Creek. The Plan shall be subject to the review and acceptance of Regional Water Board staff. The Applicant shall not be required to submit a Notice of Intent under the statewide construction general permit if the Plan is found acceptable by Regional Water Board staff.

10. **303(d) Impairment:** The Regional Water Board and the U.S. Environmental Protection Agency have listed the Freshwater Creek watershed under the Clean Water Act Section 303(d) as a sediment impaired water body. The Regional Water Board is in the process of establishing a Total Maximum Daily Load (TMDL) for sediment in the Freshwater Creek watershed. This certification requires measures to control sediment during Project construction, including containing disturbed areas behind a berm and implementing an erosion, sediment, and pollution control plan.

11. **Other Agency Actions:** The United States Army Corps of Engineers authorized the Project under Nationwide Permit Nos 3, *Maintenance*, and 27, *Aquatic Habitat Restoration*, pursuant to section 404 of the Clean Water Act, on April 19, 2016. The applicant has submitted an Intra-Service Section 7 Biological Evaluation to the United States (U.S.) Fish and Wildlife Service to address potential impacts to tidewater goby critical habitat. The Applicant has filed for inclusion in the U.S. National Marine Fisheries Service Restoration Center Arcata Office Programmatic Biological Opinion.
The Applicant has also applied for a Coastal Development Permit from the California Coastal Commission and a 1600 Streambed Alteration Agreement from the California Department of Fish and Wildlife.

12. **CEQA Compliance:** As lead agency, the County of Humboldt certified a Mitigated Negative Declaration (SCH No. 2008082028), pursuant to the requirements of the California Environmental Quality Act (CEQA). An addendum to the Mitigated Negative Declaration was prepared December 18, 2014, to address Project elements associated with Phase II operations.

13. **Antidegradation Policy:** The federal antidegradation policy requires that state water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California’s antidegradation policy in State Water Board Resolution No. 68-16. Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. The Regional Water Board’s Basin Plan implements, and incorporates by reference, both the State and federal antidegradation policies. This certification is consistent with applicable federal and State antidegradation policies, as it does not authorize the discharge of increased concentrations of pollutants or increased volumes of treated wastewater, and does not otherwise authorize degradation of the waters affected by this Project.

14. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification," which requires compliance with all conditions of this water quality certification. The Order may be accessed at this web address:


<table>
<thead>
<tr>
<th>Receiving Water:</th>
<th>Wood Creek</th>
</tr>
</thead>
<tbody>
<tr>
<td>Filled and/or Excavated Areas:</td>
<td>Temporary impacts to waters of the U.S.: 15 acres</td>
</tr>
<tr>
<td>Latitude/Longitude:</td>
<td>40.784, -124.093&lt;sup&gt;1&lt;/sup&gt;</td>
</tr>
<tr>
<td>Certification Expiration:</td>
<td>June 20, 2021</td>
</tr>
</tbody>
</table>

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Wood Creek Aquatic Enhancement Project, Phase II (WDID No.

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<sup>1</sup> WGS84 datum
1B16213WNHU) as described in the application will comply with sections 301, 302, 303, 306 and 307 of the Clean Water Act, and with applicable provisions of state law, provided that the Applicant complies with the following terms and conditions:

All conditions of this certification apply to the Applicant (and their employees) and all contractors (and their employees), sub-contractors (and their employees), and any other entity or agency that performs activities or work on the Project as related to this Water Quality Certification.

Project-Specific Conditions

1. Fisheries and water quality monitoring shall be implemented as described in Wood Creek Phase II Monitoring Plan for Inclusion under CD-021-13, sent to the Regional Water Board from the National Marine Fisheries Service via e-mail on May 24, 2016. Changes to the monitoring plan are subject to the review and acceptance of Regional Water Board staff.

2. Planting and monitoring shall be implemented as described in the Planting and Monitoring Plan—Phase I Adaptive Management Area, dated May 2016. Changes to the planting and monitoring plan are subject to the review and acceptance of Regional Water Board staff.

3. Planting and monitoring shall be implemented as described in the Planting and Monitoring Plan—Wood Creek Aquatic Habitat Enhancement Project—Phase II, dated May 2016. Changes to the planting and monitoring plan are subject to the review and acceptance of Regional Water Board staff.

Project-Specific Conditions Requiring Reports

4. The Regional Water Board shall be notified at least five working days (working days are Monday – Friday) prior to the commencement of construction.

5. Prior to construction, the Applicant shall submit an erosion, sediment, and pollution control plan (Plan), detailing best management practices to prevent discharges of sediment and construction-related pollutants to Wood Creek. The Plan shall be subject to the review and acceptance of Regional Water Board staff.


7. The Applicant shall submit a report documenting pre-Project baseline conditions no later than December 31, 2016. The Applicant shall also submit years 1, 2, and 5,
monitoring reports not later than December 31st, 2017, 2018, and 2021, to document both Phase I and Phase II vegetation and hydrology monitoring data.

Standard Conditions

8. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and title 23, California Code of Regulations, section 3867.

9. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to title 23, California Code of Regulations, section 3855, subdivision (b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

10. The validity of this certification is conditioned upon total payment of any fee required under title 23, California Code of Regulations, section 3833, and owed by the Applicant. The total application fee is $200. The Regional Water Board received $1,201 from the Applicant on March 17, 2016. The Applicant is due a $1,001 refund.

11. Only wildlife-friendly, 100 percent biodegradable erosion and sediment control products that will not entrap or harm wildlife shall be used. Erosion and sediment control products shall not contain synthetic (e.g., plastic or nylon) netting. Photodegradable synthetic products are not considered biodegradable. The Applicant shall request approval from the Regional Water Board if an exception from this requirement is needed for a specific location.

12. BMPs for erosion, sediment and turbidity control shall be implemented and in place at commencement of, during and after any ground clearing activities or any other Project activities that could result in erosion or sediment discharges to surface water. Severe and unseasonal rain events are becoming more frequent due to the effects of climate change. Therefore, BMPs shall be immediately available for deployment at all times to prevent discharges to waters of the state.

13. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this certification, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the state. When operations are completed, any excess material or debris shall be removed from the work area.

14. The Applicant shall provide Regional Water Board staff access to the Project site to document compliance with this certification.
15. If, at any time, an unauthorized discharge to surface water (including wetlands, lakes, rivers or streams) occurs, or any water quality problem arises, the associated Project activities shall cease immediately until adequate BMPs are implemented including stopping work. The Regional Water Board shall be notified promptly and in no case more than 24 hours after the unauthorized discharge or water quality problem arises.

16. Prior to implementing any change to the Project that may be a material change as defined in California Water Code section 13260(c) as a proposed change in character, location, or volume of the discharge, the Applicant shall obtain prior written approval of the Regional Water Board Executive Officer. If the Regional Water Board is not notified of the material change to the discharge, it will be considered a violation of this certification, and the Applicant may be subject to Regional Water Board enforcement action(s).

17. All Project work shall be conducted as described in this certification and in the application submitted by the Applicant, and shall comply with all applicable water quality standards as detailed in the Basin Plan. If the Regional Water Board is not notified of a significant alteration to the Project, it will be considered a violation of this certification, and the Applicant may be subject to Regional Water Board enforcement actions.

18. The Applicant shall provide a copy of this certification and State Water Resources Control Board (SWRCB) Order No. 2003-0017-DWQ to any contractor(s), subcontractor(s), and utility company(ies) conducting work on the Project, and shall require that copies remain in their possession at the work site. The Applicant shall be responsible for ensuring that all work conducted by its contractor(s), subcontractor(s), and utility companies is performed in accordance with the information provided by the Applicant to the Regional Water Board.

19. Disturbance or removal of existing vegetation shall not exceed the minimum necessary to complete the Project.

20. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment shall not result in a discharge or threatened discharge to any waters of the state including dry portions of the shoreline. At no time shall the Applicant or its contractors allow use of any vehicle or equipment, which leaks any substance that may impact water quality.

21. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under applicable state or federal law. For the purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or
threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification. In response to a suspected violation of any condition of this certification, the State Water Board may require the holder of any federal permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the State Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In response to any violation of the conditions of this certification, the Regional Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

22. The Regional Water Board may add to or modify the conditions of this certification, as appropriate, to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act.

23. In the event of any change in control of ownership of land presently owned or controlled by the Applicant, the Applicant shall notify the successor-in-interest of the existence of this certification by letter and shall email a copy of the letter to the following email address: NorthCoast@waterboards.ca.gov.

The successor-in-interest shall email the Regional Water Board Executive Officer at: NorthCoast@waterboards.ca.gov to request authorization to discharge dredged or fill material under this certification. The request must contain the following:

   i) Effective date of ownership change;
   ii) Requesting entity’s full legal name;
   iii) The state of incorporation, if a corporation;
   iv) The address and phone number of contact person; and
   v) A description of any changes to the Project or confirmation that the successor-in-interest intends to implement the project as described in this certification.

24. Except as may be modified by any preceding conditions, all certification actions are contingent on:

   i) The discharge being limited to and all proposed mitigation being completed in strict compliance with the Applicant’s Project description and CEQA documentation, as approved herein; and
   ii) Compliance with all applicable water quality requirements and water quality control plans including the requirements of the Water Quality Control Plan for the North Coast Region (Basin Plan), and amendments thereto.
25. The authorization of this certification for any dredge and fill activities expires on June 20, 2021. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

**Conditions 4-7 are requirements for information and reports.** Any requirement for a report made as a condition to this certification is a formal requirement pursuant to California Water Code section 13267, and failure or refusal to provide, or falsification of such required report is subject to civil liability as described in California Water Code, section 13268.

If you have any questions or comments, please call Brendan Thompson of my staff, at (707) 576-2699, or via e-mail at Brendan.Thompson@waterboards.ca.gov.

_______________________________
Matthias St. John  
Executive Officer

160620_BJT_dp_WoodCreek_401

Original to:  Michael Cipra, North Coast Regional Land Trust, MCipra@ncrlt.org

cc: State Water Resources Control Board, Stateboard401@waterboards.ca.gov  
Environmental Protection Agency, Region 9 R9-WTR8-Mailbox@epa.gov  
Bob Pagliuco, National Marine Fisheries Service, Bob.Pagliuco@noaa.gov  
Cameron Purchio, United States Army Corps of Engineers, Cameron.R.Purchio@usace.army.mil  
Carol Heidseik, United States Army Corps of Engineers, Carol.A.Heidsiek@usace.army.mil  
Cristin Kenyon, California Coastal Commission, Cristin.Kenyon@coastal.ca.gov
Regulatory Division

SUBJECT: File No. 2008-00077N

Mr. Michael Cipra
Northcoast Regional Land Trust
P.O. Box 398
Bayside, California 95524

Dear Mr. Cipra:

This letter is in reference to your submittal received January 26, 2016, concerning Department of the Army (Corps) permit authorization to excavate channel and pond features extending east from the existing Wood Creek channel to restore streamflow and create a 3.45-acre of slough channels, pools, and wetland habitat for coho and other salmonids located east of the City of Eureka, 0.5 miles east of Pidgeon Point Road and 300 yards west of Felt Road, near three-corners, Humboldt County, California. Slough channels and ponds would be constructed to form a network of rearing habitat fed by freshwater inputs. Excavated material would be contoured in and around adjacent cattail marsh to create 1.81 acres of planting hummocks and interconnected, shallow, seasonal flooded wetlands to create habitat for shorebirds, migratory birds, other wildlife, and plants.

Excavated material would also address an incidental outcome of a previous restoration project by recontouring a seasonal mudflat and salt panne area with native plants and grasses to create a high salt marsh wetland. The specific topographic alterations involved in this habitat creation project are presented in the scope of work, on pages 2-5 of the “Wood Creek Phase II Habitat Enhancement Project,” dated December 2015, which was previously provided to our office by your staff. The project would include placement of large wood structures in the form of 6 logs, 18 logs with rootwad, 13 base logs in jam structures, 3 whole trees, and 400 cubic yards of native plantings designed to enhance habitat for multiple terrestrial, aquatic, and plant species. All equipment refueling would take place in upland areas.

Work within U.S. Army Corps of Engineers’ (Corps) jurisdiction would include impacts to Section 404 waters that would temporarily impact approximately 11.47 acres of wetlands with no conversion to uplands. Impacts would result from the above-mentioned improvements and conversion of 11.47 acres to former salt marsh habitat through the excavation and installation of approximately 8,230 cubic yards of fill. All work shall be completed at the site locations as indicated in the “Wood Creek Phase II Habitat Enhancement Project Maps, 65% Design Plans,” (sheets 1-12), dated 8/18/15, (Enclosure 1).

Section 404 of the Clean Water Act (CWA) generally regulates the discharge of dredged or fill material below the plane of ordinary high water in non-tidal waters of the United States, below the high tide line in tidal waters of the United States, and within the lateral extent of wetlands adjacent to these
waters. A Preliminary Jurisdictional Determination (JD) has been completed for your site. Preliminary JD’s are written indications that there may be waters of the U.S. on a parcel or indications of the approximate location(s) of waters of the U.S. on a parcel. The enclosed delineation map entitled “USACE File #2008-00077, Wood Creek Habitat Enhancement,” dated 3/29/16 (enclosure 2), depicts the extent and location of wetlands and other waters of the United States within the boundary area of the site that may be subject to U.S. Army Corps of Engineers' regulatory authority under Section 404 of the Clean Water Act.

You are advised that the preliminary jurisdictional determination may not be appealed through the U.S. Army Corps of Engineers' Administrative Appeal Process, as described in 33 C.F.R. Section 331 (65 Fed. Reg. 16,486; Mar. 28, 2000). Under the provisions of 33 C.F.R Section 331.5(b)(9), non-appealable actions include preliminary jurisdictional determinations since they are considered to be only advisory in nature and make no definitive conclusions on the jurisdictional status of the water bodies in question. However, you may request this office to provide an approved jurisdictional determination that precisely identifies the scope of jurisdictional waters on the site; an approved jurisdictional determination may be appealed through the Administrative Appeal Process. If you anticipate requesting an approved jurisdictional determination at some future date, you are advised not to engage in any on-site grading or other construction activity in the interim to avoid potential violations and penalties under Section 404 of the Clean Water Act. Finally, you may provide this office new information for further consideration and request a reevaluation of this preliminary jurisdictional determination.

Based on a review of the information you submitted, your project qualifies for authorization under Department of the Army Nationwide Permit (NWP) 3 (Maintenance) and 27 (Aquatic Habitat Restoration, Establishment, and Enhancement Activities), 77 Fed. Reg. 10,184, February 21, 2012 (enclosure 3), pursuant to Section 404 of the CWA of 1972, as amended (33 U.S.C. § 1344 et seq.). The project must be in compliance with the terms of the NWP, the general conditions of the Nationwide Permit Program (http://www.spn.usace.army.mil/Portals/68/docs/regulatory/Nationwide/NWP_Gen_Cond.pdf), and the San Francisco District regional conditions cited on our website http://www.spn.usace.army.mil/Portals/68/docs/regulatory/Nationwide/Reg_Cond.pdf. You must also be in compliance with any special conditions specified in this letter for the NWP authorization to remain valid. Non-compliance with any term or condition could result in the revocation of the NWP authorization for your project, thereby requiring you to obtain an Individual Permit from the Corps. This NWP authorization does not obviate the need to obtain other State or local approvals required by law.

This verification will remain valid until March 18, 2017, unless the NWP authorization is modified, suspended, or revoked. Activities which have commenced (i.e., are under construction) or are under contract to commence in reliance upon a NWP will remain authorized provided the activity is completed within 12 months of the date of a NWP's expiration, modification, or revocation, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in
accordance with 33 C.F.R. § 330.4(e) and 33 C.F.R. §§ 330.5 (c) or (d). This verification will remain valid if, during the time period between now and March 18, 2017, the activity complies with any subsequent modification of the NWP authorization. The Chief of Engineers will periodically review NWPs and their conditions and will decide to either modify, reissue, or revoke the permits. If a NWP is not modified or reissued within five years of its effective date, it automatically expires and becomes null and void. It is incumbent upon you to remain informed of any changes to the NWPs. Changes to the NWPs would be announced by Public Notice posted on our website (http://www.spn.usace.army.mil/Missions/Regulatory.aspx). Upon completion of the project and all associated mitigation requirements, you shall sign and return the Certification of Compliance (enclosure 4) verifying that you have complied with the terms and conditions of the permit.

General Condition 18 stipulates that project authorization under a NWP does not allow for the incidental take of any federally-listed species in the absence of a biological opinion with incidental take provisions. As the principal federal lead agency for this project, Fish and Wildlife Service (FWS) initiated consultation with the National Marine Fisheries Service (NMFS) and FWS, to address project related impacts to listed species, pursuant to section 7(a) of the Endangered Species Act of 1973, as amended, 16 U.S.C. § 1531 et seq. On February 2, 2016, NMFS concurred that the project fits under the NOAA Restoration Center’s Programmatic BO #15422SWR2009AR00566 (dated March 21, 2012) and FWS concurrence letter dated 2/18/16.

To ensure compliance with this NWP authorization and to further minimize adverse impacts to water quality and other aquatic resources, including federally listed threatened and endangered species and designated critical, the project is subject to the following Special Conditions:

1. Incidents where any individuals of SONCC coho salmon, CC Chinook salmon, NC steelhead, Pacific eulachon, and green sturgeon listed by NOAA Fisheries under the Endangered Species Act appear to be injured or killed as a result of discharges of dredged or fill material into waters of the United States or structures or work in navigable waters of the United States authorized by this NWP shall be reported to NOAA Fisheries, Office of Protected Resources at (301) 713-1401 and the Regulatory Office of the San Francisco District of the U.S. Army Corps of Engineers at (415) 503-6795. The finder should leave the plant or animal alone, make note of any circumstances likely causing the death or injury, note the location and number of individuals involved and, if possible, take photographs. Adult animals should not be disturbed unless circumstances arise where they are obviously injured or killed by discharge exposure, or some unnatural cause. The finder may be asked to carry out instructions provided by NOAA Fisheries, Office of Protected Resources, to collect specimens or take other measures to ensure that evidence intrinsic to the specimen is preserved.

2. The NMFS addressed adverse effects to SONCC coho salmon, CC Chinook salmon, and NC steelhead. On February 2, 2016, NMFS concurred that the project fits under the NOAA
Restoration Center’s Programmatic BO #154225WR2009AR00566 (dated March 21, 2012). All measures from this B.O. and all work restrictions are incorporated as special conditions to the NWP authorization for your project to ensure unauthorized incidental take of species and loss of critical habitat does not occur.

3. Best management practices (BMP’s) will be implemented including installation of silt fences, straw bales, gravel bags, and fiber roles, if appropriate. Placement of these materials will control sediment discharge and minimize sediment release into receiving waters.

4. Fueling activities will occur in designated upland locations.

5. No concrete washings or water from concrete will be allowed to flow into waterways. No concrete will be poured within flowing water in waterways. Waste management best management practices will be implemented.

6. No debris, sand, silt, trash, concrete or washings thereof, oil or other petroleum products or washings thereof, or other foreign materials shall be allowed to enter or be placed where it may be washed by rainfall or runoff into waters of the U.S. Upon project completion, any and all excess construction materials, debris, and/or other excess project materials shall be removed to an appropriate upland disposal site.

7. All construction materials (new and old) will be stored in a contained area in the staging area.

8. All debris will be transported to an appropriate disposal landfill.

9. The permittee shall restore all temporarily impacted areas to pre-construction contours. All disturbed areas shall be revegetated with pre-existing and/or native wetland vegetation.

10 All measures identified on pages 6-7 of the document entitled: “Wood Creek Phase II Habitat Enhancement Project,” dated December 2015, shall be implemented.

You may refer any questions on this matter to Carol Heidsiek of our Regulatory staff by telephone at 707-443-0855 or by email at Carol.A.Heidsiek@usace.army.mil. All correspondence should be addressed to the Regulatory Division, North Branch, Eureka Field Office, 601 Startare Drive, Box 14, Eureka, California 95501, referencing the file number at the head of this letter.

The San Francisco District is committed to improving service to our customers. My Regulatory staff seeks to achieve the goals of the Regulatory Program in an efficient and cooperative manner, while preserving and protecting our nation’s aquatic resources. If you would like to provide comments on our
Regulatory Program, please complete the Customer Service Survey Form available on our website: http://www.spn.usace.army.mil/Missions/Regulatory.aspx

Sincerely,

[Signature]

Aaron O. Allen, Ph.D.
Acting Chief, Regulatory Division

Enclosures

Copies Furnished (w/o encls):

FWS, Arcata CA
NOAA, Arcata, CA
CA RWQCB, Santa Rosa, CA
CDFW, Eureka, CA
Nationwide Permit 3 - Maintenance

(a) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure, or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. Any stream channel modification is limited to the minimum necessary for the repair, rehabilitation, or replacement of the structure or fill; such modifications, including the removal of material from the stream channel, must be immediately adjacent to the project or within the boundaries of the structure or fill. This NWP also authorizes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the district engineer, provided the permittee can demonstrate funding, contract, or other similar delays.

(b) This NWP also authorizes the removal of accumulated sediments and debris in the vicinity of existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.) and/or the placement of new or additional riprap to protect the structure. The removal of sediment is limited to the minimum necessary to restore the waterway in the vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend farther than 200 feet in any direction from the structure. This 200 foot limit does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall and intake structures or to maintenance dredging to remove accumulated sediments from canals associated with outfall and intake structures. All dredged or excavated materials must be deposited and retained in an area that has no waters of the United States unless otherwise specifically approved by the district engineer under separate authorization. The placement of new or additional riprap must be the minimum necessary to protect the structure or to ensure the safety of the structure. Any bank stabilization measures not directly associated with the structure will require a separate authorization from the district engineer.

(c) This NWP also authorizes temporary structures, fills, and work necessary to conduct the maintenance activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

(d) This NWP does not authorize maintenance dredging for the primary purpose of navigation. This NWP does not authorize beach restoration. This NWP does not authorize new stream channelization or stream relocation projects.

Notification: For activities authorized by paragraph (b) of this NWP, the permittee must submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 31). The pre-construction notification must include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals. (Sections 10 and 404)

Note: This NWP authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Clean Water Act Section 404(f) exemption for maintenance.

Federal Register | Vol. 77, No. 34 | Tuesday, February 21, 2012 | Notices 10269
Activities in waters of the United States associated with the restoration, enhancement, and establishment of tidal and non-tidal wetlands and riparian areas, the restoration and enhancement of non-tidal streams and other non-tidal open waters, and the rehabilitation or enhancement of tidal streams, tidal wetlands, and tidal open waters, provided those activities result in net increases in aquatic resource functions and services.

To the extent that a Corps permit is required, activities authorized by this NWP include, but are not limited to, the removal of accumulated sediments; the installation, removal, and maintenance of small water control structures, dikes, and berms, as well as discharges of dredged or fill material to restore appropriate stream channel configurations after small water control structures, dikes, and berms, are removed; the installation of current deflectors; the enhancement, restoration, or establishment of riffle and pool stream structure; the placement of in-stream habitat structures; modifications of the stream bed and/or banks to restore or establish stream meanders; the backfilling of artificial channels; the removal of existing drainage structures, such as drain tiles, and the filling, blocking, or reshaping of drainage ditches to restore wetland hydrology; the installation of structures or fills necessary to establish or re-establish wetland or stream hydrology; the construction of small nesting islands; the construction of open water areas; the construction of oyster habitat over unvegetated bottom in tidal waters; shellfish seeding; activities needed to reestablish vegetation, including plowing or discing for seed bed preparation and the planting of appropriate wetland species; re-establishment of submerged aquatic vegetation in areas where those plant communities previously existed; re-establishment of tidal wetlands in tidal waters where those wetlands previously existed; mechanized land clearing to remove non-native invasive, exotic, or nuisance vegetation; and other related activities. Only native plant species should be planted on the site.

This NWP authorizes the relocation of non-tidal waters, including non-tidal wetlands and streams, on the project site provided there are net increases in aquatic resource functions and services. Except for the relocation of non-tidal waters on the project site, this NWP does not authorize the conversion of a stream or natural wetlands to another aquatic habitat type (e.g., stream to wetland or vice versa) or uplands. Changes in wetland plant communities that occur when wetland hydrology is more fully restored during wetland rehabilitation activities are not considered a conversion to another aquatic habitat type. This NWP does not authorize stream channelization. This NWP does not authorize the relocation of tidal waters or the conversion of tidal waters, including tidal wetlands, to other aquatic uses, such as the conversion of tidal wetlands into open water impoundments.

Compensatory mitigation is not required for activities authorized by this NWP since these activities must result in net increases in aquatic resource functions and services.

Reversion. For enhancement, restoration, and establishment activities conducted: (1) In accordance with the terms and conditions of a binding stream or wetland enhancement or restoration agreement, or a wetland establishment agreement, between the landowner and the U.S. Fish and Wildlife Service (FWS), the Natural Resources Conservation Service (NRCS), the Farm Service Agency (FSA), the National Marine Fisheries Service (NMFS), the National Ocean Service (NOS), U.S. Forest Service (USFS), or their designated state cooperating agencies; (2) as voluntary wetland restoration, enhancement, and establishment actions documented by the NRCS or USDA Technical Service Provider pursuant to NRCS Field Office Technical Guide standards; or (3) on reclaimed surface coal mine lands, in accordance with a Surface Mining Control and Reclamation Act permit issued by the Office of Surface Mining Reclamation and Enforcement (OSMRE) or the applicable state agency, this NWP also authorizes any future discharge of dredged or fill material associated with the reversion of the area to its documented prior condition and use (i.e., prior to the restoration, enhancement, or establishment activities). The reversion must occur within five years after expiration of a limited term wetland restoration or establishment agreement or permit, and is authorized in these circumstances even if the discharge occurs after this NWP expires. The five-year reversion limit does not apply to agreements without time limits reached between the landowner and the FWS, NRCS, FSA, NMFS, NOS, USFS, or an appropriate state cooperating agency. This NWP also authorizes discharges of dredged or fill material in waters of the United States for the reversion of wetlands that were restored, enhanced, or established on orverts-converted cropland or on uplands, in accordance with a binding agreement between the landowner and NRCS, FSA, FWS, or their designated state cooperating agencies (even though the restoration, enhancement, or establishment activity did not require a section 404 permit). The prior condition will be documented in the original agreement or permit, and the determination of return to prior conditions will be made by the Federal agency or appropriate state agency executing the agreement or permit. Before conducting any reversion activity the permittee or the appropriate Federal or state agency must notify the district engineer and include the documentation of the prior condition. Once an area has reverted to its prior physical condition, it will be subject to whatever the Corps Regulatory requirements are applicable to that type of land at the time. The requirement that the activity results in a net increase in aquatic resource functions and services does not apply to reversion activities meeting the above conditions. Except for the activities described above, this NWP does not authorize any future discharge of dredged or fill material associated with the reversion of the area to its prior condition. In such cases a separate permit would be required for any reversion.
Permittee: Northcoast Regional Land Trust, Michael Cipra

File Number: 2008-00077N

Certification of Compliance for Nationwide Permit

"I hereby certify that the work authorized by the above referenced File Number and all required mitigation have been completed in accordance with the terms and conditions of the Nationwide Permit."

PERMITTEE

DATE

Return to:

Carol Heidsiek
U.S. Army Corps of Engineers
San Francisco District
Eureka Field Office, CESPN-R-N-EK
601 Startare Drive, Box 14
Eureka, California 95501
INTRA-SERVICE SECTION 7 BIOLOGICAL EVALUATION FORM

[Note: This form provides the outline of information needed for intra-Service consultation. If additional space is needed, attach additional sheets, or set up this form to accommodate your responses.]

Originating Person:
Paula Golightly
Telephone Number:
707-825-5123
Date:
February 18, 2016

I. Region: 8

II. Service Activity (Program): Coastal Program, Wood Creek Phase II-Habitat Enhancement Project.

III. Pertinent Species and Habitat:

A. Listed species and/or their critical habitat within the action area: tidewater goby. The project area was also designated as critical habitat for the species in 2013.

B. Proposed species and/or proposed critical habitat within the action area: none.

C. Candidate species within the action area: none.

D. Include species/habitat occurrence on a map. See Figure 2 for the location known as the Pond.

IV. Geographic area or station name and action: The proposed action is to enhance coastal wetlands for native plant, fish and wildlife species with a focus on rearing habitat for Southern Oregon/Northern California Coast coho salmon. Project work will occur on the Freshwater Farms Reserve owned and managed by the Northcoast Regional Land Trust, in Eureka California along Wood Creek a tributary to Freshwater Slough adjacent to north Humboldt Bay. Please see the attached document titled “Wood Creek Phase II Enhancement Project, Project Information a” and associated Appendices including Figures 1 and 2.

V. Location (attach map): See Figures 1 and 2.
A. **Ecoregion Number and Name:** N/A

B. **County and State:** Humboldt County, California

C. **Section, township, and range (or latitude and longitude):** Section 29, Township 5N, Range 1E, U.S. Geological Survey (USGS) map Arcata South, Humboldt Base and Meridian.

D. **Distance (miles) and direction to nearest town:** The project area is less than one mile from the incorporated area of Eureka, California.

E. **Species/habitat occurrence:** Surveys have been conducted by California Department of Fish and Wildlife (CDFW) approximately twice per year at a location known as the pond in the project area. Tidewater gobies have been detected periodically at this location. Please see Appendix E, Table for a summary of the detections along with survey reports by CDFW.

VI. **Description of proposed action (attach additional pages as needed):** Please see the attached documents for information about the proposed work. They are as follows: Wood Creek Phase II Habitat Enhancement Project-Project Information, Appendix A: Wood Creek Aquatic Habitat Enhancement Phase II 65% Design Plans, and Appendix B: Wood Creek Aquatic Habitat Enhancement Phase I Adaptive Management 65% Design Plans, Appendix C, Appendix D: Wood Creek Phase I Adaptive Management Area Planting and Vegetation Monitoring Plan, Appendix E: CDFW Field Notes for Fish Surveys at Wood Creek with Summary of Tidewater Goby Detections, Appendix F: Wood Creek Tidal Marsh Enhancement Project, Year 5 Performance Monitoring Report.

VII. **Determination of effects:**

A. **Explanation of effects of the action on species and critical habitats in items III. A, B, and C (attach additional pages as needed):**

We have determined that effects of the action may affect but are not likely to adversely affect the species or its critical habitat. Construction activities have been planned to minimize or avoid impacts to the species following construction planning similar to restoration projects that have occurred around Humboldt Bay where the tidewater goby has been detected.

B. **Explanation of actions to be implemented to reduce adverse effects:**

See pages 2-5 of the Wood Creek Phase II Habitat Enhancement Project-Project Information document to read how we will minimize impacts to the species and habitat.
VIII. Effect determination and response requested: [* = optional]

A. Listed species/designated critical habitat:

**Determination**

- no effect to species/critical habitat
  (species/unit: ________)

- may affect, but is not likely to adversely affect species/critical habitat
  (species/unit: tidewater goby/NC Shb-Unit 3, CH Unit HUM-3)

- may affect, and is likely to adversely affect species/critical habitat
  (species/unit: ________)

**Response requested**

- Concurrency
  See email 3/16/16

B. Proposed species/proposed critical habitat:

**Determination**

- no effect on proposed species/proposed critical habitat
  (species/unit: ________)

- is likely to jeopardize proposed species/
  adversely modify proposed critical habitat
  (species/unit: ________)

**Response requested**

- Formal Consultation

C. Candidate species:

**Determination**

- no effect
  (species: ________)

- is likely to jeopardize candidate species
  (species: ________)

**Response requested**

- Conference

- [Signature]
  [Date: 3/18/2014]

[Title/office of supervisor at originating station]
IX. Reviewing ESO Evaluation:

A. Concurrence _____ Nonconcurrence √ "No effect" 

B. Formal consultation required _____

C. Conference required _____

D. Informal conference required _____

E. Remarks (attach additional pages as needed):

[Signature]
[Title/office of reviewing official]

Date: 3/23/16
To: Paula Golightly  
Program: Conservation Partnerships  
Funding: Coastal  

From: R1/R8 Cultural Resources Team  
Anan Raymond, Regional Historic Preservation Officer  

Subject: Section 106 compliance: Wood Creek Phase II Enhancement Project - Freshwater Farms Reserve – Humboldt County, California

Thank you for submitting information regarding the project(s) listed above. The U.S. Fish and Wildlife Service (FWS) is contributing funding for a habitat restoration project on private land in Humboldt County, California (T5N, R1E, Section 29, Arcata South 7.5' USGS quad) (Figure 1 and 2). The following is a summary of the project and a finding of effect for Section 106 compliance.

**Undertaking and APE:** The Coastal Program, National Coastal Wetland Grant Program and the California Coastal Conservancy are providing funds to enhance and restore habitats and habitat functions on lands owned and managed by the Northcoast Regional Land Trust (NRLT) along Wood Creek, a small tributary to Freshwater slough which flows into Humboldt Bay. The property is known as Freshwater Farms Reserve. Project activities are focused on providing improved habitat for juvenile coho salmon, a Federal and state listed species, along with improving conditions for other Federally-listed species such as steelhead and the tidewater goby. Many other estuarine and terrestrial species will benefit from the work as well. Project activities include enhancement of previous work completed in 2009 in an area known as Phase I and specific activities in a new area connected to Phase I known as Phase II.

The following are a list of activities describing the undertaking:

1. In the Phase II project area excavate a total of 8230 cubic yards (CY) of material in the project area to enhance slough channels, pools, and wetland habitat for species such as coho salmon, other salmonids species, tidewater goby and habitats for other fish and wildlife including native birds, amphibians, and plants.
2. Of the 8,230 cubic yards to be excavated approximately 1780 CY will be used to create planting hummocks and island habitat features to attract a variety of native species in the Phase II project area.
3. The remaining (approximately 6450 CY) will be used to restore salt marsh habitat in the Phase I project area. This particular location had been incidentally converted to a mix of mudflat and salt panne due to pooling from tidal inundation and it has also attracted an invasive plant species.
4. A series of large woody debris structures will be placed in the excavated channels in the Phase II area to increase aquatic habitat complexity, in the form of six logs, 18 logs with rootwad, 13 base logs in jam structures and three whole trees with intact crowns.
5. Three log sills and a series of seven compacted earth sills will be placed in the Phase I area from
excavated material in Phase II to prevent the stranding of fish during seasonal or tidal changes and to increase aquatic habitat for estuarine species.

6. Removal of localized reed canary grass invasions will be removed as part of the project.

7. A temporary 0.15 acre equipment/materials staging area will be created in the previously disturbed and graded parking lot of the recently installed Freshwater Nature Trail (not located in wetland) southeast of the project area.

8. A temporary vehicle route will be made through the project area to accomplish project work while causing minimal environmental impact. We are not proposing to build a road.

In the Phase I project area approximately 0.3 feet of fill will be placed in a subsided mudflat. The range of depths of excavation in the Phase II area will be from less than one foot on portions of the floodplain to as much as four feet to enhance one of the slough channels. Fill for Phase I will be obtained from the channel, wetland and slough excavation work removed from Phase II. This fill will be used to develop planting hummocks in Phase II, raise the elevation of the existing wetland in the Phase I area to facilitate salt and brackish marsh vegetation, and to create sills in the sloughs of the Phase I area. Fill placement will occur in what was formally a fully tidal wetland complex. The entire project area and the property-Freshwater Farms Reserve - are classified as wetland under the definition of both the Army Corps of Engineers and the California Coastal Commission and they will remain wetlands after the project is complete. Project work will not reach beyond the limit of historical ground disturbance. The area of inundation will not increase beyond the current existing wet areas but will be focused in providing more complex topography of sloughs, wetlands, and swales.

The area of potential effects (APE) includes the area within which project activities will occur, a total of 21.2 acres. Of these, 11.6 acres are in the Phase I project area and 9.6 acres are in the Phase II area (2 of these acres being access corridors for vehicles).

Background Information and Land Use History: The project area is located along Freshwater Slough, the lower drainage area of Freshwater Creek. Freshwater Creek drains an area of approximately 31 square miles and is well-recognized as a stronghold for coho salmon in the Humboldt Bay region. The project area lies along the southern dike of Freshwater Slough and is part of a 74-acre parcel owned by the NRLT. Prior to the construction of the Northwestern Pacific Railroad and Highway 101 beginning over one hundred years ago, the project area occupied the upper zone of tidal marshland surrounding the perimeter of Humboldt Bay and its tidal mudflats. These upper tidal zones were characterized by a mix of freshwater sources (e.g., creeks) with salt marsh habitat transitioning to brackish and then freshwater marsh habitat. A dike that skirts the northern edge of the project area along Freshwater Slough for approximately 1,900 feet separates the tidal slough from the diked former tidelands which make up the bulk of the project area. Timber harvesting began in the Freshwater Creek watershed in the late 1800s. During this time period, dikes were built and the lowlands were cleared and drained to serve as croplands and pasture for agriculture. Construction of the railroad and Highway 101 led to additional wetlands loss and further floodplain and channel structure modification, causing significant loss of riparian vegetation, and increasing surface erosion from roads, agricultural runoff, and sediment delivery to watercourses. Today, only one-tenth of the historic tidal wetlands remain around Humboldt Bay.

The Conservancy, NRLT, the Coastal Program and other partners worked to enhance tidal influence into Wood Creek’s historic marshlands in 2009 (Phase I area). Project work included the enhancement and construction of four tidally-influenced slough channels, enhancement of topography to facilitate tidal wetlands and development of a freshwater depressional wetland; removal of a tide gate and berm; and revegetation of the project area with native wetland plants. This project was one of three relatively small tidal restoration projects to be completed along Humboldt Bay at the time. Freshwater Farms Preserve is tidally influenced along an elevational gradient from the westernmost edge of the property farther inland (east) to within the Phase II project area. The landscape provides some limited transitional marsh areas from salt to brackish. The Phase II project area currently includes a monoculture of cattails and shallow wet areas that are inundated most of the year and are dominated by a mix
of native and non-native grasses and forbs. The Phase II area is quite flat offering little diversity for complexity of wetlands and marsh vegetation types.

The property is currently zoned Agricultural Exclusive by the County of Humboldt and has multiple uses. It is used to sustainably and seasonally graze cattle, raise crops for an on-site farm stand, provide habitat for wildlife and fish, offer educational opportunities, and provide recreational opportunities for the public through tours by NRLT staff and partners. Recently the Freshwater Farms Reserve Nature Trail was completed to help facilitate tours and educational opportunities.

**Cultural Resources Identification Efforts:** An archaeological investigation was conducted on behalf of the landowner (NRLT) prior to the Phase I project on the property (Smith 2006), and the area was visited again in 2013 (Smith 2013). Together, these survey efforts encompassed the area of potential effects for the current project. The professional archaeologist noted in both reports that the sensitivity of the area for prehistoric cultural resources is low:

> “Based on the….research and environmental description it was determined that the project area is of low sensitivity for prehistoric archaeological resources. It was formerly subjected to both freshwater and tidal flooding, and recorded prehistoric sites in the area are located on more upland locations.”

(Smith 2006:4)

A portion of a historic dike was noted along Freshwater Slough, but it was not slated for impact by the 2006 project (Smith 2006:2). As all currently-proposed activities are limited to the wetland portion of the property, it does not appear that the dike will be subject to impact during this project either.

The report also noted that the buildings associated with the property (barn and dairy building) are eligible for listing on the California Register of Historic Resources for the local significance of the dairy operations and should be preserved, if possible (Smith 2006:2). These structures will be not be impacted as a result of the current undertaking.

**Recommendations:** The project activities generally fall under Appendix A of the FWS programmatic agreement with the California State Historic Preservation Officer (SHPO). An Appendix A determination indicates that the FWS has evaluated the potential impact of the proposed project on cultural resources at the location listed above, and based on research, the results of previous survey, and land use history, we do not anticipate that the project would affect or impact cultural resources.

No further cultural resource identification effort is necessary for the project. However, the existence of cultural resources can never be predicted with certainty. In the event that cultural resources are discovered during project implementation, any ground disturbing activity should be halted and the FWS Regional Archaeologist should be notified at the above address. If the planned activities change, please let us know.

If you have any questions, please don’t hesitate to call us at 503-625-4377. Thank you for considering cultural resources.

**References:**

Smith, Ann King
2006 Freshwater Creek Estuary Rehabilitation Project Cultural Resources Investigation. Prepared for Northcoast Regional Land Trust.