DOCUMENT 00200

INSTRUCTIONS TO BIDDERS

STANDARD EDITION

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INSTRUCTIONS TO BIDDERS

Formal Bids are requested for a general construction contract, or work described in general, as follows:

ISOLATION VALVES SEISMIC HAZARD MITIGATION

Bid submission: Tuesday, March 29, 2016. Bid submittal deadlines are listed in Document 00100 (Advertisement for Bids) and in paragraph 23 herein.

1. DEFINITIONS

A. All abbreviations and definitions of terms used in this Document 00200 are set forth in Document 00700 (General Conditions), Section 01415 (Regulatory Requirements – Funding), and Section 01420 (References and Definitions).

2. CONTACT INFORMATION

Mailing address:
Sonoma County Water Agency
404 Aviation Boulevard
Santa Rosa, CA 95403-9019

Office:
Sonoma County Water Agency
404 Aviation Boulevard
Santa Rosa, CA 95403-9019

Phone: 707-547-1900
Fax: 707-544-6123
Email: BidderQuestions@scwa.ca.gov

Website address:
www.sonomacountywater.org

3. PROCUREMENT OF BIDDING DOCUMENTS

A. Bidders may examine and obtain Bidding Documents at Owner's Office at the address listed in paragraph 2, Contact Information.

B. Electronic Bidding Documents are available on Owner's website.

C. Bidders may obtain hard copies of Bidding Documents upon registration as a Planholder through Owner's office and payment of a non-refundable fee of $44 for each copy. Owner will accept cash or checks payable to "Sonoma County Water Agency." Bidding Documents need not be returned to Owner. Bidding Documents contain a reduced set of Drawings. Bidders may arrange to obtain full-size Drawings as described in Document 00100 (Advertisement for Bids).

4. REQUIRED PRE-BID INVESTIGATIONS

A. Bidders may examine any available existing conditions information (e.g., record documents, specifications, studies, drawings of previous work) and applicable environmental assessment information (if any) regarding the Project at the Owner's Office by giving Owner reasonable advance notice. Documents may also be available at Owner's website. Document 00320 (Geotechnical Data and Existing Conditions) apply to all supplied existing conditions information and geotechnical reports and all other information supplied regarding existing conditions either above ground or below ground.

B. Bidders will be provided the opportunity to investigate conditions or otherwise conduct invasive investigations, explorations, tests, or studies at the Pre-Bid Site Visit, subject to delivering an executed Document 00210 (Indemnity and Release Agreement) and providing an insurance certificate as described therein by noon of the Day prior to the Pre-Bid Site Visit. This will be the Bidders' only opportunity to investigate conditions at the Site.

Bidders who intend only to observe Site conditions at the Pre-Bid Site Visit and not conduct such examinations are not required to provide an executed Document 00210 (Indemnity and Release Agreement) or an insurance certificate for the Pre-Bid Site Visit.

5. MANDATORY PRE-BID CONFERENCE AND SITE VISIT

A. Owner will conduct a Pre-Bid Conference and Pre-Bid Site Visit at the times and locations listed to consider such matters as Bidders may request and a Pre-Bid Site Visit immediately following.

	Time	Day	Date	Location
Pre-Bid Conference	10:00 a.m.	Tuesday	3/8/2016	Owner's Administrative Office
Pre-Bid Site Visit	12:30 p.m.	Tuesday	3/8/2016	Site 539+00 along Russian River – Cotati Intertie (maps provided at Pre-Bid Conference)

B. The Pre-Bid Conference and Site Visit will last approximately 7 hours. A map showing the meeting place for the Pre-Bid Conference is included in Document 00201 (Pre-Bid Conference Vicinity Map). A detailed map may also be available on Owner's website.

C. The Pre-Bid Site Visit is merely a showing of the Site and existing conditions and will not provide an opportunity for Bidders to have questions answered. Bidders are encouraged, however, to submit written questions. Bidding Documents will not be available at the Pre-Bid Site Visit. Attendees who would like copies of the Bidding Documents must register with Owner as a Planholder.

D. Bidders must attend Pre-Bid Conference and Site Visit and sign an attendance roster as a condition to bidding.

E. Bidders shall not rely on oral statements. Oral statements will not be binding or legally effective.

F. Minutes of the Pre-Bid Conference:

1) Owner will issue Minutes of the Pre-Bid Conference to all Registered Planholders (all parties recorded by Owner as having received Bidding Documents) and to all Registered Attendees of the Pre-Bid Conference, which shall constitute the sole and exclusive record and statement of the results of the Pre-Bid Conference. The Minutes issued by Owner are not Contract Documents.

6. SUBSTITUTIONS

A. Bidders must base their Bids on products and systems specified in Contract Documents or listed by name in Addenda.

B. Except as provided herein, Owner will consider substitution requests only for "or equal items." Bidders wanting to use "or equal" item(s) shall submit Document 00660 (Substitution Request Form) no later than 14 Days prior to submitting their Bids. After that date, Owner will not accept "or equal" substitution requests. To assess "or equal" acceptability of product or system, submittals of substitutions shall contain the information required in Document 00660 (Substitution Request Form) and set forth in Section 01600

(Product Requirements). Insufficient information will be grounds for rejection of substitution. Owner shall, within a reasonable period of time after having received a Request for Substitution, issue in writing its decision as to whether the proposed substitute item is an Equal item. Owner's decision shall be conclusive on all Bidders.

C. Approved substitutions shall be listed in Addenda and become part of the Contract Documents.

D. As further limitation on Bidder's privilege to substitute items, Owner has found that:

1) Certain items are designated as Owner standards and certain items are designated to match existing items in use on a particular public improvement, either completed or in the course of completion. Items that fall in this category include:

a. Butterfly valves.

b. Combination air and vacuum valves.

c. Motor operated valves.

2) Certain items are designated in order that a field test or experiment may be made to determine the product's suitability for future use. Items that fall in this category include:

a. None.

3) Certain necessary items are only available from one source. Items that fall in this category include:

a. None.

E. As to such items listed above, Owner will not permit substitution.

F. Substitutions may be requested after submitting Bids and Award of Contract only in accordance with requirements specified in Section 01600 (Product Requirements).

7. BIDDER QUESTIONS

A. Bidders must direct all questions about the meaning or intent of Bidding Documents to Owner in writing (see paragraph 2, Contact Information). Inquiries must include the full name of the Project. Owner may not answer questions received less than ten Days prior to the date for opening Bids. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

8. ADDENDA

A. Owner will respond to questions and issue interpretations or clarifications as Owner, in its discretion, considers necessary, in the form of Addenda. Addenda may also be issued to modify the Bidding Documents as deemed advisable by Owner. Addenda will be written and will be issued to each Registered Planholder to the address, fax number, or email supplied to Owner by Bidder.

B. Owner may, in its discretion, choose to delay issuance of addenda in order to address several issues at once. Owner will endeavor to issue addenda in a timely manner.

C. Addenda shall be acknowledged by number with signature in Document 00400 (Bid Form) and shall be part of the Contract Documents. A complete listing of Addenda may be secured from Owner upon written request (see paragraph 2, Contact Information).

9. FUNDING BY U.S. DEPARTMENT OF HOMELAND SECURITY, FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

A. United States Department of Homeland Security, Federal Emergency Management Agency (FEMA) Region IX, Hazard Mitigation Grants Program (HMGP) funding to be provided through the California Governor's Office of Emergency Services (Cal OES).

B. Additional information regarding requirements related to funding sources is included in Document 01415 (Regulatory Requirements – Funding).

10. WAGE RATES

A. Both Federal and State prevailing wage rates are applicable to the Project. Copies of the state's general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are on file at Owner's Office and are deemed included in the Bidding Documents. Upon request, Owner will make copies available to any interested party. Copies of state wage rates are also available at www.dir.ca.gov/labor_law.html. Copies of federal wage rates are available at Wage Determinations OnLine.gov: www.wdol.gov and are included in Section 01415 (Regulatory Requirements – Funding). If there is a discrepancy or difference between the state prevailing wage rate and the federal minimum wage rate, Contractor shall pay not less than the higher wage rate.

B. Contractor shall post the applicable federal and state prevailing wage rates at the Site.

C. Davis Bacon Act requirements related to payment of prevailing wages, posting of notices, and certified payroll records apply to this project.

11. AFFIRMATIVE STEPS FOR OUTREACH TO DISADVANTAGED BUSINESS ENTERPRISES (DBES)

A. Bidders are required to perform and document outreach efforts to disadvantaged business enterprises, also known as DBEs, in procuring supplies and services in the performance of this Project. These obligations apply both during the Bidding process and over the course of the Contract. These requirements are described more specifically in Section 01415 (Regulatory Requirements – Funding) and Section 01415 Attachment D.

12. OTHER REQUIREMENTS PRIOR TO BIDDING

A. Submission of Bid signifies Bidder's careful examination of Bidding Documents and complete understanding of the nature, extent, and location of Work to be performed. As a condition to Bidding, Bidder must complete tasks listed in Document 00520 (Agreement), Article 5. Submission of Bid shall constitute Bidder's express representation to Owner that Bidder has fully completed these tasks.

13. PREPARATION OF BIDS

A. Bidders must submit Bids in accordance with this Document 00200.

B. All Bidders must submit Bids using, where applicable, documents supplied in these Bidding Documents, including without limitation Document 00400 (Bid Form), Document 00420 (Bidder Registration Form), Document 00430 (Subcontractors List), and Document 00450 (Statement of Qualifications for Construction Work). Bids must be full and complete. Bidders must complete all Bid items and supply all information required by Bidding Documents. Bidders may not modify the Bid Form or qualify their Bids. Bidders must

submit clearly and distinctly written Bids. Bidders must clearly make any changes in their Bids by crossing out original entries, entering new entries, and initialing new entries.

C. The submission of a Bid does not commit Owner to award a contract for the Project, to pay costs incurred in the preparation of a Bid, or to procure or contract for any goods or services.

14. REQUIRED BID SECURITY

A. Bidders must submit with their Bids either cash, a cashier's check, or certified check from a responsible bank in the United States, or corporate surety bond furnished by a surety authorized to do business in the State of California, of not less than ten percent of amount of Total Bid price, payable to "Sonoma County Water Agency." All Bidders choosing to submit a surety bond must submit it on the required form, Document 00411 (Bond Accompanying Bid).

15. REGISTRATION PURSUANT TO LABOR CODE SECTION 1725.5 REQUIRED

A. All Contractors and Subcontractors who will perform any portion of the Work must be currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. Owner requires proof of current registration by Bidder and all Subcontractors listed on Document 00430 (Subcontractors List) as a condition to Bid on this project, subject only to the allowances of Labor Code section 1771.1.

16. REQUIRED SUBCONTRACTORS LIST

A. All Bidders must submit with their Bids the required information on all Subcontractors in Document 00430 (Subcontractors List) for those Subcontractors who will perform any portion of Work, including labor, rendering of service, or specially fabricating and installing a portion of the Work or improvement according to detailed drawings contained in the plans and specifications, in excess of one half of one percent of total Bid. Violation of this requirement may result in Bid being deemed non-responsive and not being considered.

17. REQUIRED STATEMENT OF QUALIFICATIONS

A. In order for a Bidder to be eligible to Bid on this Contract, Bidder must submit a Statement of Qualifications responsive to the requirements identified in Document 00450 (Statement of Qualification for Construction Work) ("SOQ"), including without limitation qualification information for Subcontractors and schedulers, if any. Information in the SOQ shall be current.

18. REQUIREMENT FOR SEPARATE SEALED ENVELOPES

A. Owner will receive Bids in two separate opaque sealed 10" x 13" envelopes, labeled Envelope "A" and Envelope "B," each containing the respective items described in paragraphs 19 and 20 of this Document 00200.

19. CONTENTS OF ENVELOPE "A" - BID PRICE

A. Envelope "A" shall include:

1) Document 00400 (Bid Form) completed in accordance with paragraph 13 of this Document 00200.

2) Bid security completed in accordance with Document 00411 (Bond Accompanying Bid) and with paragraph 14 of this Document 00200.

3) Document 00430 (Subcontractors List) in accordance with paragraph 16 of this Document 00200 and Document 00430 (Subcontractors List).

4) Document 00481 (Noncollusion Declaration).

20. CONTENTS OF ENVELOPE "B" - BIDDER QUALIFICATIONS

A. Envelope "B" shall include:

1) Statement of Qualifications including all necessary attachments and supporting documents submitted in accordance with paragraph 17 of this Document 00200 and Document 00450 (Statement of Qualifications for Construction Work).

2) Document 00420 (Bidder Registration Form). Bidder must complete this form and include comprehensive answers to all questions.

3) Document 00454 (Summary of Subcontractors Listed on Document 00430 [Subcontractor List])

4) Document 00457 (DBE Checklist) and required attachments.

5) Document 00467 (Certification of Drug-Free Workplace).

6) Document 00469 (Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Contractor).

7) Document 00473 (Certification Regarding New Restrictions on Lobbying)

21. LABELING OF BID ENVELOPES

A. Bidder shall mark its Bid envelopes on the outside with Bidder's name and the following:

BID FOR THE SONOMA COUNTY WATER AGENCY,
CONTRACT NUMBER 60-64-7 #2,
ISOLATION VALVES SEISMIC HAZARD MITIGATION
"Envelope A" or "Envelope B" (as appropriate)

22. WITHDRAWAL OF BIDS PRIOR TO BID OPENING TIME

A. Bidders may withdraw their Bids at any time prior to the Bid opening time fixed in this Document 00200, only by written request for the withdrawal of Bid filed with Owner. Bidder or its duly authorized representative shall execute request to withdraw Bid.

23. SUBMITTAL OF BIDS

A. Sealed Bids will be received on Tuesday, March 29, 2016, at Owner's Office at the address listed in paragraph 2, Contact Information, and as shown in the map provided in Document 00203 (Bid Submittal Vicinity Map).

B. Owner's staff will determine official time and will call out the specified time in the Bid reception area of Owner's Office.

C. Envelope "A" shall be due by 2:00 p.m.

D. Envelope "B" shall be due by 3:00 p.m.

E. All Bid envelopes will be time-stamped by Owner to reflect their submittal time.

24. BID OPENING

A. Owner will open all Bidders' Envelopes "A" at 3:00 p.m. on the date specified in paragraph 23 above, initially evaluate them for responsiveness, and determine an Apparent Low Bidder as specified herein.

25. BID EVALUATION

A. In evaluating Bids, Owner will consider whether or not the Bids comply with the prescribed requirements, unit prices, and other data, as may be requested in Document 00400 (Bid Form) or prior to the Notice of Award. Owner will also consider Bidders' qualifications.

26. DETERMINATION OF APPARENT LOW BIDDER (ENVELOPE "A")

A. Apparent Low Bid will be based solely on the total amount of all Bid items based on assumptions contained in Document 00400 (Bid Form). All Bidders are required to submit Bids on all Bid items.

B. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between written words and figures will be resolved in favor of the words.

C. Quantities stated in the Bidding Documents are approximate only and are subject to correction upon final measurement of the Work, and are subject further to the rights reserved by Owner to increase or diminish the amount of work under any classification as advantages to design or construction needs require.

27. EVALUATION OF BIDDER RESPONSIBILITY (ENVELOPE "B")

A. Owner may determine whether a Bidder is qualified in its sole discretionary judgment.

B. Owner will open all Bidders' Envelope "B" and check its contents for compliance with paragraph 20 of this Document 00200 and this paragraph 27. Owner will notify Apparent Low Bidder in writing of any deficiencies found and will provide Bidder the opportunity to respond in writing with reasonable clarifications but will not allow any changes in the nature of Bidder as a business entity.

C. Written clarifications made by Bidder in response to Owner's requests for clarifications during the Bid evaluation process become part of the Bid.

D. In order to evaluate Bidder's ability to perform and furnish the Work in accordance with the Contract Documents to Owner's satisfaction within the prescribed time, Owner may conduct reasonable investigations and reference checks of Bidder, proposed Subcontractors, suppliers and other persons and organizations as Owner deems necessary to assist in the evaluation of any Bid and to establish Bidder's responsibility, qualifications, financial ability, proposed Subcontractors, suppliers, and other persons and organizations. Submission of a Bid constitutes Bidder's consent to the foregoing. Owner shall have the right to consider information provided by sources other than Bidder. Owner shall also have the right to communicate directly with Bidder's surety regarding Bidder's bonds.

E. Bidder's compliance with the minimum qualification requirements in this paragraph will be measured by the experience of both the Bidder itself as well as the Key Personnel identified by Bidder in Document 00450 (Statement of Qualifications for Construction Work) who will have responsible charge of the various major components of the Work. If Bidder subcontracts portions of the Work, Owner, in its determination of whether the minimum

qualification requirements have been met, will consider the qualifications of the Subcontractor's Key Personnel identified by Bidder in Document 00450 (Statement of Qualifications for Construction Work).

F. Except as otherwise provided in this Document 00200 or in Document 00450 (Statement of Qualification for Construction Work), Owner will make final determinations regarding Bidder responsibility based solely upon the SOQ submitted as part of Envelope "B" on Bid day.

28. SUPPLEMENTAL SUBMISSIONS

A. The Apparent Low Bidder shall submit the following form(s) within three Business Days after Apparent Low Bidder is notified in writing of its status:

1) Document 00492 (Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Transactions)

2) Document 00493 (Certification Regarding New Restrictions on Lobbying – Lower Tier Transactions)

29. PUBLIC RECORDS ACT REQUESTS, BID INFORMATION, AND CONFIDENTIALITY WAIVER

A. Per the Public Records Act, Owner will make available to the public Bidder's SOQ, all correspondence and written questions submitted during the Bid period, all Bid submissions opened in accordance with the procedures of this Document 00200, and all subsequent Bid evaluation information. Except as otherwise required by law, Owner will not disclose proprietary financial information submitted that has been designated confidential by Bidder (including, but not limited to, audited financial statements and Part C, Financial Information, in Bidder's SOQ). Any such proprietary financial information that a Bidder believes should be exempted from disclosure shall be specifically identified and marked as such. Blanket-type identification by designating whole pages or sections shall not be permitted and shall be invalid.

B. Upon a request for records regarding this Bid which specifically includes confidential information marked by Bidder in accordance with Paragraph A, above, Owner will notify Bidder within ten Days from receipt of the request. If Owner agrees that the information so marked is proprietary financial information exempt from disclosure, Owner shall refuse to disclose the information and Bidder shall take all appropriate legal action and defend Owner's refusal to produce the information in all forums. If Owner does not agree that the information so marked is exempt from disclosure, Owner will so notify Bidder of a specific time when, in response to the request, the records will be made available for inspection in accordance with the Public Records Act.

C. By submitting a bid, Bidder shall be deemed to have waived any objections to the release of all other information and also to the release of any financial information that was not designated as confidential at the time the bid is submitted.

30. OWNER'S RIGHT TO REJECT BIDS

A. Bidder's failure to submit all required documents strictly as required entitles Owner to reject the Bid as non-responsive.

B. Owner will reject all Bids received after the specified time and will return such Bids to Bidders unopened.

C. Owner will reject as non-responsive any Bid not submitted on the required forms.

D. Owner reserves the right in its sole discretion to reject any Bid as non-responsive as a result of any error or omission in the Bid.

E. Owner reserves the right to reject any Bid not clearly written.

F. Owner will reject as non-responsive any Bid submitted without the necessary Bid security.

G. Owner may reject any or all Bids and waive any informalities or minor irregularities in the Bids. Owner also reserves the right, in its discretion, to reject any or all Bids and to re-Bid the Project. Owner reserves the right to reject any or all nonconforming, non-responsive, unbalanced, or conditional Bids, and to reject the Bid of any Bidder if Owner believes that it would not be in the best interest of Project to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by Owner. For purposes of this paragraph, an "unbalanced Bid" is one having nominal prices for some Bid items and enhanced prices for other Bid items.

H. Owner reserves the right, in its sole discretion to reject any bid that fails to demonstrate to Owner's satisfaction that the Bidder undertook a good faith effort to comply with Section 01415 (Regulatory Requirements – Funding), Attachment D. In evaluating such matters, Owner may, in its sole discretion, consider the quality, quantity, and intensity of the good faith efforts undertaken by the Bidder.

31. NOTICE OF INTENT TO AWARD FOR CONSTRUCTION

A. Document 00505 (Notice of Intent to Award for Construction) will be posted at Owner's Office and in the main lobby of the County of Sonoma Administration Building, 575 Administration Drive, Santa Rosa, California. Owner will use reasonable efforts to deliver an electronic copy of Document 00505 (Notice of Intent to Award for Construction) to all Bidders who submitted Bids no later than the Business Day after issuance, although any delay or failure to do so will not extend the Bid protest deadline described below.

32. BID PROTESTS

A. Any Bid protest must be submitted in writing to Owner (Attention: Contract Administration), before 3:30 p.m. of the fifth Business Day following posting of Document 00505 (Notice of Intent to Award for Construction). Owner's staff will determine official time and will call out the specified time in the Bid reception area of Owner's Office, stating that the period for accepting Bid protests is closed.

B. The initial protest document must contain a complete statement of the basis for the protest. The protest must refer to the specific portion of the document that forms the basis for the protest. The protest must include the name, address, and telephone number of the person representing the protesting party.

C. The party filing the protest must concurrently transmit a copy of the initial protest document and any attached documentation to all other parties with a direct financial interest that may be adversely affected by the outcome of the protest. Such parties shall include all other Bidders who appear to have a reasonable prospect of receiving an award depending upon the outcome of the protest.

D. The procedure and time limits set forth in this paragraph are mandatory and are Bidder's sole and exclusive remedy in the event of Bid protest. Bidder's failure to comply with these

procedures shall constitute a waiver of any right to further pursue the Bid protest, including filing a Government Code Claim or legal proceedings. A Bidder may not rely on a protest submitted by another Bidder but must timely pursue its own protest.

33. NOTICE OF AWARD

A. If the Contract is to be awarded, it will be awarded to the lowest responsible responsive Bidder. Following completion of all required Owner procedures and receipt of all Owner approvals, Owner will issue Document 00510 (Notice of Award) to successful Bidder.

34. POST-NOTICE OF AWARD REQUIREMENTS

A. After Notice of Award, the successful Bidder must execute and submit the following documents as indicated below.

B. Submit the following documents to Owner by 5:00 p.m. of the 20th Day following Notice of Award. Execution of Contract by Owner depends upon approval of these documents:

1) Document 00520 (Agreement): To be executed by successful Bidder. Submit four originals, each bearing an original signature on the signature page and initials on each page.

2) Document 00611 (Construction Performance Bond): To be executed by successful Bidder and surety, in the amount set forth in Document 00611 (Construction Performance Bond). Submit four originals. Liquidated Damages are described in Document 00520 (Agreement).

3) Document 00612 (Construction Labor and Material Payment Bond): To be executed by successful Bidder and surety, in the amount set forth in Document 00612 (Construction Labor and Material Payment Bond). Submit four originals.

4) The Guaranty in the form set forth in Document 00630 (Guaranty). Submit four originals, each bearing an original signature.

5) One complete set of documentary information received or generated by successful Bidder in preparation of Bid prices for its Bid, as set forth in Document 00670 (Escrow Bid Documents).

6) Insurance certificates and endorsements required by Article 4 of Document 00700 (General Conditions). Submit one original set.

C. Owner shall have the right to communicate directly with Apparent Low Bidder's proposed performance bond surety, to confirm the performance bond. Owner may elect to extend the time to receive faithful performance and labor and material payment bonds.

1) If Bidder exercises the option to open an Escrow Account, Owner and Contractor shall, at the time the account is opened, deliver to Escrow Agent a fully executed counterpart of Document 00680 (Escrow Agreement for Security Deposits in Lieu of Retention).

35. FAILURE TO EXECUTE AND DELIVER DOCUMENTS

A. Successful Bidder's failure to submit the documents required herein, in a proper and timely manner, entitles Owner to rescind its award and to cause Bidder's Bid security to be forfeited as provided herein.

B. If Bidder to whom Contract is awarded, within the period described in paragraph 34 of this Document 00200, fails or neglects to execute and deliver all required Contract Documents

and file all required bonds, insurance certificates, and other documents, Owner may, in its sole discretion, foreclose on Bidder's surety bond, or deposit Bidder's cashier's check or certified check for collection, and retain the proceeds thereof as liquidated damages for Bidder's failure to enter into the Contract Documents. Bidder agrees that calculating the damages Owner may suffer as a result of Bidder's failure to execute and deliver all required Contract Documents would be extremely difficult and impractical and that the amount of Bidder's required Bid security shall be the agreed and presumed amount of Owner's damages. In addition, upon such failure, Owner may determine the next Apparent Low Bidder and proceed accordingly.

36. RETURN OF BID SECURITY

A. Owner may retain Bid security of other than the Apparent Low Bidder for a period of 60 Days after issuance of the Notice of Award. After award, Owner will return to the respective unsuccessful Bidders their Bid securities and Bid bonds.

37. CONFORMED PROJECT MANUAL

A. Following Award of Contract, Owner may prepare a conformed Project Manual reflecting Addenda issued during bidding, which will, failing objection, constitute the approved Project Manual.

38. MODIFICATION OF COMMENCEMENT OF WORK

A. Owner expressly reserves the right to modify the date for the Commencement of Work under the Contract and to independently perform and complete work related to the Project. Owner accepts no responsibility to Contractor for any delays attributed to its need to complete independent work at the Site.

39. EQUAL EMPLOYMENT OPPORTUNITY

A. Contractor shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical conditions, disability, or any other reason.

END OF DOCUMENT