

## **Appendix A**

**THIS AGREEMENT** is between the Shasta Valley Resource Conservation District (hereinafter called OWNER) and Marrone Construction, Inc. (hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

**Article 1. WORK**

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Shasta Water Association Irrigation Diversion Improvements

**Article 2. ENGINEER**

Not Used

**Article 3. CONTRACT TIMES**

- 3.1 Instream work as described in the Contract Document shall be completed by October 15, 2008. All other work shall be substantially completed on or before November 30, 2008, and completed and ready for final payment in accordance with paragraph 14.07 of the General Conditions on or before December 15, 2008.
- 3.2 *Liquidated Damages.* OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER [One Thousand] dollars [\$1,000.00] for each day that expires after the time specified in paragraph 3.1 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the time specified in paragraph 3.1 for completion and readiness for final payment or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER two hundred and fifty dollars (\$250.00) for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

**Article 4. CONTRACT PRICE**

OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the Total Contract Price.

CONTRACTOR acknowledges that a portion of the Work is being contracted on a lump sum basis and agrees to accept the following Total Contract Price as full payment for the Lump Sum Bid Work:

Two million two hundred sixty four thousand-nine hundred Dollars  
(in words)

(in numerals) \$2,264,900.00



In the event of a discrepancy, amount in words shall prevail.

CONTRACTOR hereby acknowledges that a portion of the Work is being contracted on an Unit Price Basis and agrees to accept payment for the unit price work according to the contract documents and the following schedule:

<u>Item</u>	<u>Unit</u>	<u>Unit Price</u>
Dredge/Removal	CY	<u>\$4.00</u>
Embankment Fill	CY	<u>\$28.81</u>

CONTRACTOR hereby acknowledges that the Total Contract Price includes all applicable taxes, overheads, and profit.

#### **Article 5. RETAINAGE**

Prior to contract completion, OWNER shall retain ten percent (10%) from progress payments.

#### **Article 6. INTEREST**

All monies not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of one half (1/2) percent per month.

#### **Article 7. CONTRACTOR'S REPRESENTATIONS**

In order to induce OWNER to enter into this Agreement, CONTRACTOR makes the following representations:

- 7.1 CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, general nature of work to be performed by OWNER or others at the site that relates to Work required by the Contract Documents and local conditions and federal, state, and local Laws and Regulations that in any manner may affect cost, progress, performance, or furnishing of Work.
- 7.2 CONTRACTOR has studied carefully reports of explorations and tests of subsurface conditions and drawings of physical conditions which are identified in the Supplementary Conditions, and accepts the determination set forth in the General Conditions, and accepts the determination set forth in paragraph 4.02 of the General Conditions of the extent of the technical data contained in such reports and drawings upon which CONTRACTOR is entitled to rely. CONTRACTOR acknowledges that such reports and drawings are not Contract Documents.
- 7.3 CONTRACTOR has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) examinations, investigations, explorations, tests, and studies (in addition to or to supplement those referred to above) which pertain to the conditions (subsurface or physical) at or contiguous to the site or other wise and which may affect the cost, progress, performance, or furnishing of the Work as CONTRACTOR deems necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents, including specifically the provision of paragraph 4.02 of the General Conditions; and no additional or supplementary examinations, investigations, explorations,

## AGREEMENT FORM

tests, reports, or similar information or data are or will be required by CONTRACTOR for such purpose.

- 7.4 CONTRACTOR has reviewed and checked information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and has included costs as defined by paragraph 4.03 of the General Conditions.
- 7.5 CONTRACTOR has correlated information known to CONTRACTOR and results of such observations, familiarizations, examinations, investigations, explorations, tests, and studies with Contract Documents.
- 7.6 CONTRACTOR has given ENGINEER written notice of conflicts, error, ambiguities, or discrepancies that it has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to indicate and convey understanding of terms and conditions for performing and furnishing Work.

### Article 8. CONTRACT DOCUMENTS

- 8.1 The Contract Documents which comprise the entire Agreement between OWNER and CONTRACTOR concerning Work are defined in paragraph 1.01 of the General Conditions.
- 8.2 Attachments to this Agreement include:  
Agreement Attachment No. 1: Executed Performance Bond  
Agreement Attachment No. 2: Executed Payment Bond  
Agreement Attachment No. 3: All other documents required to be submitted by CONTRACTOR prior to execution of Agreement.
- 8.3 Drawings consist of 25 sheets generally numbered consecutively, with each sheet bearing the following general title: "Shasta Water Association Irrigation Diversion Improvements."
- 8.4 Addenda numbers   1   to   2  , inclusive.

### Article 9. MISCELLANEOUS

- 9.1 Terms used in this Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.
- 9.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- 9.3 OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.



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IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed three (3) copies of this Agreement. One counterpart of each will be distributed to OWNER, CONTRACTOR, and ENGINEER. All portions of the Contract Documents have been signed, initialed or identified by OWNER and CONTRACTOR.

This Agreement will be effective on April 24, 2008 (which is the Effective Date of the Agreement).

OWNER Shasta Valley Resource  
Conservation District

CONTRACTOR Marrone Construction Inc.

By: [Signature]

By: [Signature]

[CORPORATE SEAL]

Attest [Signature]  
Address for giving notices

215 Executive Ct., Suite A  
Yreka, CA 96097

(If OWNER is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Agreement.)

Attest [Signature]  
Address for giving notices

P.O. Box 156  
Mt. Shasta CA 96067  
License No. 398449 CA A9B

Agent for service of process:  
[Signature]

(If CONTRACTOR is a corporation, attach evidence of authority to sign).

**RESOLUTION OF THE GOVERNING BOARD**  
**08-005**

WHEREAS the Shasta Valley Resource Conservation District (SVRCD) desires to undertake a certain project designated as Shasta Water Association Demobilization Project.

NOW, THEREFORE, BE IT RESOLVED THAT the SVRCD District Board wishes to designate **Kerry Mauro**, SVRCD Board Vice-Chairman, as the signatory for all contracting paperwork required for this project.

In the event there is any change of signatory for the Shasta Water Association Demobilization Project, the SVRCD Board will make said change with a new resolution.

BE IT FURTHER RESOLVED that the resolution shall be in effect for a period beginning April 24, 2008, until completion of the project.

I hereby certify that the foregoing is a true copy of the resolution adopted by the Shasta Valley Resource Conservation District in a meeting thereof held on the 24<sup>th</sup> day of April, 2008 by the following vote:

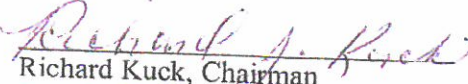
AYES: Meamber, Hirt, Mauro

NOES: None

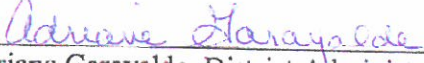
ABSENT: None

ABSTAINING: None

RECUSED: Jones, Kuck

  
Richard Kuck, Chairman  
Board of Directors

ATTEST:

  
\_\_\_\_\_  
Adriane Garayalde, District Administrator



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GENERAL ENGINEERING & BUILDING CONTRACTORS ■ QUALITY CRAFTSMANSHIP SINCE 1975

## UNANIMOUS WRITTEN CONSENT OF DIRECTORS TO CORPORATE ACTION


The undersigned, being all of the members of the Board of Directors of Marrone Construction, Inc., a California Corporation (the "Corporation") consent to the following action and adopt the following resolution:

RESOLVED, that Christopher F. Marrone, as President, Secretary, and Chief Financial Officer of Marrone Construction, Inc., is authorized to sign any and all contract documents pertaining to the agreement between Marrone Construction, Inc. and Shasta Valley Resource Conservation District for the Work titled "Shasta Water Association Irrigation Diversion Improvements."

RESOLVED FURTHER, that the officers of this Corporation are hereby authorized to execute all documents and to take such additional action as they may reasonable deem necessary in order to fulfill the intent and propose of these resolutions.

This consent is executed in lieu of holding a special meeting of the Board of Directors of the Corporation pursuant to Section 307 (b) of the Corporations Code of the State of California and the Bylaws of the Corporation which authorize the taking of action by the Board of Directors by unanimous written consent without a meeting.

Dated: April 29, 2008

  
Christopher F. Marrone, Director