

PROJECT MANUAL & CONTRACT

CHARLES M. SCHULZ SONOMA COUNTY AIRPORT TERMINAL REDEVELOPMENT PROJECT

COUNTY OF SONOMA

September 17, 2019

**[ALL PROMPTS WITHIN THIS DOCUMENT, EITHER BRACKETED OR HIGHLIGHTED OR BOTH,
ARE INTENDED BY THE PARTIES TO BE COMPLETED IN SUBSEQUENT PHASES WHEN THE
REQUIRED INFORMATION IS AVAILABLE, WHICH THE PARTIES ALSO INTEND TO BE WHEN THE
CONSTRUCTION PRICING IS FINALIZED.]**

DOCUMENT 00 01 10

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CONTRACTOR ACKNOWLEDGES AND SHALL COMPLY WITH THE FOLLOWING FAA ADVISORY CIRCULAR AND SHALL NOTIFY THE COUNTY AND ARCHITECT IF ANY OF THE PLANS OR SPECIFICATIONS DO NOT COMPLY WITH THE REQUIREMENTS IN THAT ADVISORY CIRCULAR:

https://www.faa.gov/documentLibrary/media/Advisory_Circular/150-5370-10H.pdf

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Division 49		[RESERVED]

END OF DOCUMENT

DOCUMENT 00 01 15

LIST OF DRAWINGS, TABLES AND SCHEDULES

DRAWINGS

Sheet number

File number

Description

[LIST ALL PLANS FOR PROJECT]

TABLES

[LIST ALL TABLES AND RELATED INFORMATION FOR PROJECT]

SCHEDULES

[LIST ALL SCHEDULES AND RELATED INFORMATION FOR PROJECT.]

ALTERNATIVELY, PROVIDE SCHEDULE(S) IN TABLE OR NARRATIVE FORMAT HERE.]

END OF DOCUMENT

DOCUMENT 00 31 19

EXISTING INFORMATION AND DOCUMENTATION REGARDING PROJECT SITE

1. Summary

This document describes existing conditions at or near the Project and use of information available regarding existing conditions. This document is **not** part of the Contract Documents. See General Conditions for definition(s) of terms used herein. Contractor is required to request from the County a copy of any reports that it believes are necessary to perform Contractor's Work in a safe, efficient and workman-like manner.

2. Reports and Information on Existing Conditions

- a. Documents providing a general description of the Site and conditions of the Work may have been collected by County, its consultants, contractors, and tenants. These documents may include previous contracts, contract specifications, tenant improvement contracts, as-built drawings, utility drawings, and information regarding underground facilities.
- b. Information regarding existing conditions may be inspected at the County Administration Office or the Construction Manager's offices, if any, and copies may be obtained at cost of reproduction and handling upon Firm's agreement to pay for such copies. These reports, documents, and other information are **not** part of the Contract Documents.
- c. Information regarding existing conditions may also be included in the Project Manual, but shall **not** be considered part of the Contract Documents.

- d. The reports and other data or information regarding existing conditions and underground facilities at or contiguous to the Project are the following: **There are no documents that have been provided to the Contractor at this time.**

- (1) **Geotechnical Data.** Geotechnical data at or near the Project that is in the County's possession available for Contractor's review. Geotechnical data will be provided to the Contractor by the County when/if it prepared by County's consultant.

- (A) **Geotechnical Reports.** Geotechnical reports that may have been prepared for and around the Site by soil investigation engineers hired by the County and its consultants, contractors, and tenants. Geotechnical reports may be inspected at the County offices or the Construction Manager's offices, if any, and copies may be obtained at cost of reproduction and handling upon Firm's agreement to pay for such copies. These reports are **not** part of the Contract Documents. The reports and drawings of physical conditions that may relate to the Project are the following:

- (2) **Original Construction Drawings**
- (3) **Survey of Site**
- (4) **Hazardous Material Reports**
- (5) **Asbestos and/or AHERA Reports.** Asbestos survey report, prepared for this Project and/or this Project site:
- (6) [Other] Report

3. Use of Information

- a. Information regarding existing conditions was obtained only for use of County and its consultants, contractors, and tenants for planning and design and is **not** part of the Contract Documents.

- b. County does not warrant, and makes no representation regarding, the accuracy or thoroughness of any information regarding existing conditions. Firm represents and agrees that in submitting a Response it is not relying on any information regarding existing conditions supplied by County.
- c. Under no circumstances shall County be deemed to warrant or represent existing above-ground conditions, as-built conditions, or other actual conditions, verifiable by independent investigation. These conditions are verifiable by Contractor by the performance of its own independent investigation that Contractor must perform as a condition to responding, and Contractor should not and shall not rely on this information or any other information supplied by County regarding existing conditions.
- d. Any information shown or indicated in the reports and other data supplied herein with respect to existing underground facilities at or contiguous to the Project may be based upon information and data furnished to County by the County's employees and/or consultants or builders of such underground facilities or others. County does not assume responsibility for the completeness of this information, and Firm is solely responsible for any interpretation or conclusion drawn from this information.
- e. County shall be responsible only for the general accuracy of information regarding underground facilities, and only for those underground facilities that are owned by County.

4. Limited Reliance on Certain Information

- a. Reference is made herein for identification of:
 - (1) Reports of explorations and tests of subsurface conditions at or contiguous to the Site that have been utilized by County in preparation of the Contract Documents.
 - (2) Drawings of physical conditions in or relating to existing subsurface structures (except underground facilities) that are at or contiguous to the Site and have been utilized by County in preparation of the Contract Documents.
- b. Firm may rely upon the general accuracy of the "technical data" contained in the reports and drawings identified above, but only insofar as it relates to subsurface conditions. The term "technical data" in the referenced reports and drawings shall be limited as follows:
 - (1) The term "technical data" shall include actual reported depths, reported quantities, reported soil types, reported soil conditions, and reported material, equipment or structures that were encountered during subsurface exploration. The term "technical data" does not include, and Firm may not rely upon, any other data, interpretations, opinions or information shown or indicated in such drawings or reports that otherwise relate to subsurface conditions or described structures.
 - (2) The term "technical data" shall not include the location of underground facilities.
 - (3) Firm may not rely on the completeness of reports and drawings for the purposes of construction. Firm may rely upon the general accuracy of the "technical data" contained in such reports or drawings.
 - (4) Firm is solely responsible for any interpretation or conclusion drawn from any "technical data" or any other data, interpretations, opinions, or information provided in the identified reports and drawings.

END OF DOCUMENT

DOCUMENT 00 51 00

NOTICE OF AWARD

Dated: _____, 20__

To: _____
("Contractor")

(Address)

From: Board of Supervisors ("Board") of the County of Sonoma ("County")

Re: **Charles M. Schulz Sonoma County Airport Terminal Redevelopment Project** ("Project" or "Contract")

Contractor was awarded the Contract on _____, 2019, by action of the County's Board.

Three (3) copies of each of the Contract Documents (except Drawings) accompany the Notice of Award. Three (3) sets of the Drawings will be delivered separately or otherwise made available. Additional copies are available at cost of reproduction.

Contractor must comply with the following conditions precedent within **SEVEN (7)** calendar days of the date of this Notice of Award.

Contractor shall execute and submit the following Contract Documents by 5:00 p.m. of the **SEVENTH (7TH)** calendar day following the date of the Notice of Award. Failure to properly and timely submit the following Contract Documents entitles County to award the contract to the next Firm with the "best value."

- a. Agreement: Submit four (4) copies, each bearing an original signature. **If Contractor is a corporation, Contractor must attach a certified copy of the corporation's by-laws, or the resolution of the Board of Directors of the corporation, authorizing the signatory to execute the Agreement and the bonds required by the Contract Documents.**
- b. Performance Bond (100%): Fully executed form provided in the Contract Documents. (Not required for Preconstruction Services.)
- c. Payment Bond (100%) (Contractor's Labor and Material Bond): Fully executed form provided in the Contract Documents. (**May** not be required for Preconstruction Services.)
- d. Insurance Certificates and Endorsements as required.
- e. Certifications to be Completed by Contractor

Failure to comply with these conditions within the time specified will entitle County to consider Contractor's Response abandoned, to annul the Notice of Award, as well as any other rights the County may have against Contractor.

County will return to Contractor one fully signed counterpart of the Agreement.

County of Sonoma

BY: _____

NAME: _____

TITLE: _____

END OF DOCUMENT

DOCUMENT 00 52 13

AGREEMENT

This agreement is made and entered into on _____, 201_____, by and between the **County of Sonoma** ("County or "Owner") and **Q&D Construction** ("Contractor" or "CMR") ("Agreement"). The County and the Contractor agree as follows:

1. **The Work:** Contractor shall furnish all tools, equipment, apparatus, facilities, labor, and material necessary to perform and complete in a good and workmanlike manner, the work of the following project:

Charles M. Schulz Sonoma County Airport Terminal Redevelopment Project ("Project" or "Contract" or "Work")

The Work shall be performed and completed as required in the Contract Documents as defined in the General Conditions including, without limitation, the Drawings and Specifications, under the direction and supervision of, and subject to, the approval of the County or its authorized representative.

2. The Contract Documents:

- a. The complete Contract consists of all Contract Documents as defined in the General Conditions and incorporated herein by this reference. All obligations of the County and Contractor are fully set forth and described in the Contract Documents. The Contract Documents are intended to cooperate so that Work called for in one and not mentioned in the other or vice versa is to be performed the same as if mentioned in all Contract Documents.
- b. **Interpretation of Contract Documents/Order of Precedence:** Questions concerning the intent, precedence, or meaning of the Contract Documents, including the Drawings or Specifications, shall be submitted to the County for interpretation. Inconsistencies in the Contract Documents shall be resolved by giving precedence in the following order:
 - (i) County-approved modifications, beginning with the most recent (if any);
 - (ii) Federal Contracting Requirements attached to this Agreement as **Exhibit E**
 - (iii) Agreement and **Exhibits A through D**;
 - (iv) Supplementary Conditions (if any);
 - (v) General Conditions;
 - (vi) Remaining Division 0 documents (Documents beginning with "00");
 - (vii) Division 1 Documents (Documents beginning with "01");
 - (viii) Division 2 through Division 49 documents (Technical Specifications);
 - (ix) Figured dimensions;
 - (x) Large-scale drawings;
 - (xi) Small-scale drawings.

In case of conflict, the greater quantity and/or higher standard of workmanship shall apply unless the County expressly in writing (e.g., via a Change Order) accepts a lesser quantity or lower quality of workmanship and the Contract Price is adjusted accordingly. The decision of the County in the matter shall be final.

3. Preconstruction Services

- a. **Notice to Proceed.** County shall issue a Notice to Proceed to Contractor pursuant to the Contract at which time Contractor shall proceed with the Preconstruction Services for the Project pursuant to the Contract Documents including, without limitation, the provisions set forth in **Exhibit A**.
- b. The terms and conditions pertaining to the performance of Preconstruction Services under this Agreement, are set forth in **Exhibit A** to this Agreement.
- c. The payment provisions for the Preconstruction Services under this Agreement are set forth in **Exhibit B** to this Agreement

4. Construction of Project

- a. **Notice(s) to Proceed.** County shall issue Notice(s) to Proceed to Contractor pursuant to the Contract at which time Contractor shall proceed with the portion of the Work specifically identified by the County in the Notice to Proceed pursuant to the Contract Documents. The County reserves the right to issue multiple Notices to Proceed for phases of the Project, including Preconstruction Services. For each Notice to Proceed following the initial Notice to Proceed, the Parties may, if required, agree to adjust the Construction Schedule as provided herein.
- b. **Project Site Conditions and Contract Documents.** Contractor acknowledges that it has and will perform certain special services in preparation to construct the Project.
- c. **Construction of Project.**
 - (i) Contractor agrees to cause the Project to be developed, constructed, and installed in accordance with the terms hereof and the Contract Documents, including those things reasonably inferable in the Contract Documents as being within the scope of the Work and necessary to produce the stated result even though no mention is made in the Contract Documents.
 - (ii) **Contract Time / Construction Schedule.**
 - (1) The construction of the Work shall be performed pursuant to the construction schedule(s), attached hereto as **Exhibit C ("Construction Schedule(s))**". The time period between the **Notice to Proceed** for the Work, or any portion thereof, and **Completion** shall be the total Contract time ("**Contract Time**"). If the County issues multiple Notices to Proceed, the time period between a Notice to Proceed for any portion of the Work and Completion thereof shall constitute the Contract Time for that portion of the Work.
 - (2) The Construction Schedule shall be developed during the Preconstruction Services and amended to be included herein. Once approved, County and Contractor may, if agreed to in writing, approve changes in the Construction Schedule.
 - (iii) **Schedule of Values.** The Contractor has provided a schedule of values, approved by the County, which attached hereto as **Exhibit D ("Schedule(s) of Values")**". The Schedule of Values must be approved by the County prior to the County approval of the Contractor's first Application for Payment.
 - (iv) **Guaranteed Project Cost.** Contractor will cause the Project to be constructed within the Guaranteed Project Cost as set forth and defined in the Guaranteed Project Cost Provisions indicated in **Exhibit B** and Contractor will not seek additional compensation from County in excess of that amount unless otherwise provided by the Contract Documents. The Guaranteed Project Cost may also be referred to herein and in the Contract Documents as the "Contract Price."

5. **Completion-Extension of Time:** If Contractor fails to complete the Work within the Contract Time, due allowance being made for the contingencies provided for herein, Contractor shall become liable to County for all loss and damage that County may suffer on account thereof. Contractor shall coordinate its Work with the work of all other contractors. The County shall not be liable for delays resulting from Contractor's failure to coordinate its Work with other contractors in a manner that allows for timely completion of Contractor's Work. Contractor shall be liable for delays to other contractors caused by Contractor's failure to coordinate its Work with the work of other contractors.
6. **Liquidated Damages:** Time is of the essence for all Work to be performed. It is hereby understood and agreed that it is and will be difficult and/or impossible to ascertain and determine the actual damage that County will sustain in the event of and by reason of Contractor's delay; therefore, pursuant to Government Code section 53069.85 and Public Contract Code section 7203, Contractor shall forfeit and pay to County the following sum(s) as liquidated damages ("Liquidated Damages"):

[LIQUIDATED DAMAGES SHALL BE A PART OF THE AGREEMENT. AT THE CONCLUSION OF PRECONSTRUCTION SERVICES, THE PARTIES SHALL AMEND THIS AGREEMENT TO INCLUDE LIQUIDATED DAMAGES ASSOCIATED WITH VARIOUS PHASES OF THE PROJECT.]

- **Submittal of any item on approved Submittal Schedule:** _____ dollars **[SPELL OUT LIQUIDATED DAMAGE AMOUNT]** (\$ _____) **[INDICATE NUMERICAL AMOUNT]** per day as Liquidated Damages for each and every day's delay beyond the time herein prescribed for each item on approved Submittal Schedule.
 - **Milestone No. 1:** _____ dollars **[SPELL OUT LIQUIDATED DAMAGE AMOUNT]** (\$ _____) **[INDICATE NUMERICAL AMOUNT]** per day as Liquidated Damages for each and every day's delay beyond the time herein prescribed in finishing the Work of Milestone No. 1.
 - **Milestone No. 2:** _____ dollars **[SPELL OUT LIQUIDATED DAMAGE AMOUNT]** (\$ _____) **[INDICATE NUMERICAL AMOUNT]** per day as Liquidated Damages for each and every day's delay beyond the time herein prescribed in finishing the Work of Milestone No. 2.
 - **Project Completion:** _____ dollars **[SPELL OUT LIQUIDATED DAMAGE AMOUNT]** (\$ _____) **[INDICATE NUMERICAL AMOUNT]** per day as Liquidated Damages for each and every day's delay beyond the Contract Time to complete all the Work.
- a. Each portion of the Liquidated Damages shall be calculated cumulatively. For example, if Contractor is late in completing two milestones and the entire Project, Contractor will forfeit and pay three separate Liquidated Damages amounts. It is hereby understood and agreed that neither the total cumulative Liquidate Damages amount nor any portion of the Liquidated Damage amount are penalties.
- b. County may deduct Liquidated Damages from money due or that may become due Contractor under this Agreement. Contractor's forfeiture of Liquidated Damages to County, and County right to retain Liquidated Damages, are as indicated in Government Code section 53069.85 and as indicated herein and in the General Conditions. Liquidated Damages are automatically and without notice of any kind forfeited and payable by Contractor upon the accrual of each day of delay. Neither County's failure or delay in deducting Liquidated Damages from payments otherwise due the Contractor, nor County's failure or delay in notifying Contractor of the forfeiture and payment of Liquidated Damages, shall be deemed a waiver of County's right to Liquidated Damages and/or the County's right to withhold Liquidated Damages from any amounts that would otherwise be payable to the Contractor.

- c. Contractor and Surety shall be liable for and pay to County the entire amount of Liquidated Damages including any portion that exceeds the amount of the Contract Price then held, retained or controlled by County.
 - d. Liquidated Damages shall be in addition, and not in lieu of, County's right to charge Contractor for the County's cost of completing or correcting items of the Work.
7. **Insurance and Bonds:** Contractor shall provide all required certificates of insurance, and payment and performance bonds.
8. **Performance of Work:** If Contractor fails to perform the Work properly or fails to perform any provisions of this Contract, the County, may, pursuant to the General Conditions and without prejudice to any other remedy it may have, cure the deficiencies and deduct the cost thereof from the payment then or thereafter due Contractor.
9. **Authority of Architect, Project Manager and/or Construction Manager:** Contractor hereby acknowledges that the Architect(s), the Project Manager and/or Construction Manager, and local building inspectors have authority to approve and/or stop Work if Contractor's Work does not comply with the requirements of the Contract Documents and all applicable laws. Contractor shall be liable for any delay caused by its non-compliant Work.
10. **Federal Contracting Requirements.** Contractor acknowledges that this Project is contingent upon federal funding from the Federal Aviation Administration ("FAA"). This Project is subject to the procurement and contract requirements of the FAA. Contractor agrees to fully comply with the FAA required contract provisions attached hereto as **Exhibit E**. To the extent of any conflict exists between any provision of the Contract Documents and the FAA required contract provisions, and to the extent that any conflict would render this Agreement void and/or result in the loss of FAA funding for the Project, then any conflict shall be resolved in favor of the FAA required contract provisions.
11. **Assignment of Contract:** Neither the Contract, nor any part thereof, nor any moneys due or to become due thereunder, may be assigned by Contractor without the written approval of County, nor without the written consent of the Surety on Contractor's Performance Bond (the "Surety"), unless the Surety has waived in writing its right to notice of assignment.
12. **Classification of Contractor's License:** Contractor hereby acknowledges that it currently holds valid Type **A & B** Contractor's license(s) (License No. 427988) issued by the State of California, Contractor's State Licensing Board, in accordance with division 3, chapter 9, of the Business and Professions Code and in the classification called for in the Contract Documents.
13. **Payment of Prevailing Wages:** Contractor and all Subcontractors under Contractor shall pay all workers on Work performed pursuant to this Contract not less than the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work as determined by the Director of the Department of Industrial Relations, State of California, for the type of work performed and the locality in which the work is to be performed within the boundaries of the County, pursuant to sections 1770 et seq. of the California Labor Code.
14. **Contractor & Subcontractor Registration:** Contractor shall comply with the registration and compliance monitoring provisions of Labor Code section 1771.4, including complying with any applicable enforcement by the Department of Industrial Relations.
15. **Skilled Workforce.** Contractor shall provide monthly reports, demonstrating compliance by itself and its Subcontractors at every tier with the skilled and trained work force requirements stated in Public Contract Code section 2602, including the minimum percentage of workers that are graduates of registered apprenticeship programs.

16. Authority of Contractor's Representative: Contractor hereby certifies that its legal representative as defined in the General Conditions and the person(s) it employees on the Project at or above the level of project superintendent, each have the authority to legally bind the Contractor.

17. Severability: If any term, covenant, condition, or provision of the Contract Documents is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions in the Contract Documents shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

IN WITNESS WHEREOF, accepted and agreed on the date indicated above:

Dated: _____, 20____

Dated: _____, 20____

County of Sonoma

Q&D Construction

By: _____

By: _____

Print Name: _____

Print Name: _____

Print Title: _____

Print Title: _____

NOTE: If the Contractor is a corporation, Contractor must attach a certified copy of the corporation's by-laws, or of the resolution of the Board of Directors of the corporation, authorizing the above person to execute this Agreement and the bonds required by the Contract Documents.

END OF DOCUMENT

**EXHIBIT A
TO AGREEMENT**

TERMS AND CONDITIONS FOR PRECONSTRUCTION SERVICES

1. **Scope of Contractor's Preconstruction Services.** Contractor, as the County's development consultant and authorized representative as contemplated by Business and Professions Code 7040, agrees to perform the services described herein. Contractor shall perform management and coordination services, plan and specification constructability reviews, provide value-engineering reviews and recommendations and other reviews as necessary to verify that the drawings and specifications are clear and reasonably accurate to minimize the need for changes during the construction phase of the project, including but not limited to the following ("Preconstruction Services"):
 - 1.1. **General Services.**
 - 1.1.1. Contractor shall attend regular meetings during Project development between the Architect, the County, County site personnel, and any other applicable consultants of the County as required to discuss the Project, including budget, scope and schedule.
 - 1.1.2. Contractor shall assist Architect with the making of a written record of all meetings, conferences, discussions and decisions made between or among the County, Architect and Contractor.
 - 1.1.3. Contractor shall assist the Architect with making formal presentations to the governing board of County.
 - 1.1.4. Contractor shall prepare and update the preliminary Project schedule.
 - 1.1.5. Contractor shall prepare and update the components of the Guaranteed Project Cost and shall be primarily in control of ensuring that the Project can and is constructed for no more than that amount.
 - 1.1.6. Contractor shall assist County with City land use issues;
 - 1.1.7. Contractor shall assist County with design review, input, and timeframe for same;
 - 1.1.8. Contractor shall provide review and comment upon geotechnical / soils investigation and report;
 - 1.1.9. Contractor shall provide review and comment upon survey of the Project site;
 - 1.1.10. Contractor shall work with the County to obtain all local and State licenses, permits, requirements and approvals.
 - 1.1.11. Contractor shall provide review and comment upon any environmental impact report ("EIR") or other required California Environmental Quality Act ("CEQA") documents with County's CEQA consultant.
 - 1.2. **Review of Design Documents.**
 - 1.2.1. Contractor shall review with the County and Architect Project design and budget, including providing the County with construction cost estimates, **four (4)** times: during the Schematic Design Phase, the Design Development Phase, at 50% Construction Documents Phase, and at

85% Construction Documents Phase to:

- 1.2.1.1. Contractor shall provide recommendations on site use and improvements, selection of materials, building systems and equipment and methods of Project delivery;
- 1.2.1.2. Contractor shall provide recommendations on relative feasibility of construction methods, availability of materials and labor, time requirements for procurement, installation and construction of the Project and subparts thereof if requested, and factors relating to cost including, but not limited to, construction costs of alternate designs of materials, preliminary budgets and possible economics that could be achieved through alternate methods or substitutions;
- 1.2.1.3. Contractor shall provide interim design phase estimates to establish and maintain the Project budget and scheduled costs; and
- 1.2.1.4. Contractor shall provide plan review.
- 1.2.1.5. **Value-Engineering.** Contractor shall prepare a value-engineering report(s) for County review and approval that:
 - 1.2.1.5.1. Details areas of cost saving (e.g. construction processes/procedures, specified materials and equipment, and equipment or other aspects of the design documents that can be modified to reduce costs and/or the time for achieving final completion of the Project and/or to extend life-cycle and/or to reduce maintenance/operations costs, without diminution in the quality of materials/equipment/workmanship, scope or intended purposes of the Project);
 - 1.2.1.5.2. Provides detailed estimate for proposed value-engineering items;
 - 1.2.1.5.3. Defines methodology or approaches that maximize value; and
 - 1.2.1.5.4. Identifies design choices that can be more economically delivered.

The County may require that Contractor to perform **two (2)** value engineering reviews and prepare an equivalent amount of reports as provided herein.

- 1.2.1.6. **Constructability Review.** Contractor shall prepare detailed interdisciplinary constructability review within thirty (30) days of receipt of the plans from the County that:
 - 1.2.1.6.1. Ensures construction documents are well coordinated and reviewed for errors;
 - 1.2.1.6.2. Identifies to the extent known, construction deficiencies and areas of concern;
 - 1.2.1.6.3. Back-checks design drawings for inclusion of modifications;
 - 1.2.1.6.4. Provides the County with written confirmation that:
 - 1.2.1.6.4.1. Requirements noted in the design documents prepared for the Project are consistent with and conform to the County's Project requirements and design standards; and
 - 1.2.1.6.4.2. Various components have been coordinated and are consistent with each other so as to minimize conflicts within or between components of the design documents.

- 1.2.2. **Confirm Modifications to Design Drawings.** If the County accepts Contractor's comments, including the value-engineering and/or constructability review comments, Contractor shall review the design documents to confirm that those comments are properly incorporated

into the final design documents.

1.3. Budget of Project Costs.

- 1.3.1. At each stage of plan review indicated above, Contractor shall update and refine the budget of the Guaranteed Project Cost based on the most recent set of design documents. Contractor shall also advise the County and the Architect if it appears that the total construction costs may exceed the Guaranteed Project Cost established by the County and shall make recommendations for corrective action. Contractor will further provide input to the County and Architect relative to value of construction, means and methods for construction, duration of construction of various building methods and constructability.
- 1.3.2. In each budget of the Guaranteed Project Cost, Contractor shall include values of scopes of work subdivided into component parts in sufficient detail to serve as the basis for progress payments during construction. This budget of the Guaranteed Project Cost shall include, at a minimum, the following information divided into at least the following categories:
 - 1.3.2.1. Overhead and profit;
 - 1.3.2.2. Supervision;
 - 1.3.2.3. General conditions;
 - 1.3.2.4. Layout & Mobilization (not more than 1%)
 - 1.3.2.5. Submittals, samples, shop drawings (not more than 3%);
 - 1.3.2.6. Bonds and insurance (not more than 2%);
 - 1.3.2.7. Close-out documentation (not less than 3%);
 - 1.3.2.8. Demolition;
 - 1.3.2.9. Installation;
 - 1.3.2.10. Rough-in;
 - 1.3.2.11. Finishes;
 - 1.3.2.12. Testing;
 - 1.3.2.13. Punchlist and acceptance.

Contractor shall indicate its willingness and ability to enter into the Contract Document to construct the Project for at or below that Guaranteed Project Cost, excluding unforeseen conditions or County - requested changes. This commitment will be a component of the Contract Documents.

1.4. Construction Schedule and Phasing Plan.

Contractor shall prepare a preconstruction schedule to guide the design team through to bid dates. That schedule shall show the multiphases and interrelations of design, constructability review, and estimating. Contractor shall also prepare a full construction schedule for the Project detailing the phasing and construction activities. Contractor shall further investigate, recommend and prepare a schedule for the County's purchase of materials and equipment requiring long lead time procurement, and coordinate the schedule with the early preparation of portions of the Contract Documents by the Architect.

1.5. Construction Planning and Bidding.

- 1.5.1. Contractor shall prepare and distribute specifications and drawings provided by County to facilitate bidding to Contractor's subcontractors.
- 1.5.2. Contractor shall review the drawings and specifications to eliminate areas of conflict and overlapping in the work to be performed by various subcontractors, and with a view to eliminating change order requests by the Architect or subcontractors.

- 1.5.3. Contractor shall conduct pre-bid conferences. Contractor shall coordinate with County and the Architect in responding to subcontractor questions or providing clarification to all subcontractors.
 - 1.5.4. Contractor shall prepare appropriate subcontractor bid packages.
- 2. **Limited Authority.** The duties, responsibilities and limitations of authority of Contractor shall not be restricted, modified or extended without written agreement between the County and Contractor.
- 3. **County 's Responsibilities.** The County has and shall continue to provide to Contractor information regarding requirements for the Project, including information regarding the County 's objectives, schedule, constraints and criteria.
- 4. **Termination**
 - 4.1. **Termination by Contractor.** The services described in this Exhibit may be terminated by Contractor upon fourteen (14) days written notice to County in the event of an uncured substantial failure of performance by County, unless the County has acted to commence cure efforts in any case where a reasonable cure cannot be concluded within the fourteen (14) day notice period.
 - 4.2. **Termination by County.** The services described in this Exhibit may be terminated at any time without cause by County upon fourteen (14) days written notice to Contractor. In the event of such a termination by County, the County shall pay Contractor for all undisputed services performed and expenses incurred per this Exhibit, supported by documentary evidence, including, but not limited to, payroll records, invoices from third parties retained by Contractor pursuant to this Exhibit, and expense reports up until the date of notice of termination plus any sums due Contractor for Board-approved extra services. In ascertaining the services actually rendered hereunder up to the date of termination, consideration shall be given to both completed work and work in process that would best serve the County if a completed product was presented.
 - 4.3. **Ownership of Records.** It is mutually agreed that all materials prepared by Contractor under this Exhibit shall become the property of the County and Contractor shall have no property right therein whatsoever. Contractor hereby assigns to County any copyrights associated with the materials prepared pursuant to this Exhibit. Immediately upon termination and upon written request, the County shall be entitled to, and Contractor shall deliver to the Contractor, all data, drawings, specifications, reports, estimates, summaries and such other materials and commissions as may have been prepared or accumulated to date by the County in performing this Exhibit (the "Termination Material") which is not Contractor privileged information, as defined by law, or Contractor's personnel information.
- 5. **Compensation to Contractor.** County shall pay for the Contractor's performance of the Preconstruction Services pursuant to the payment provisions indicated in **Exhibit B** to the Agreement.
- 6. **Schedule of Preconstruction Services.** The Contractor shall perform the Preconstruction Services pursuant to the schedule indicated in **Exhibit C** to the Agreement.

**EXHIBIT B
TO AGREEMENT**

CONTRACT PRICE AND COST OF PRECONSTRUCTION SERVICES

1. Preconstruction Services Payments

1.1. Contractor shall perform Preconstruction Services in connection with this Project. When Contractor performs Preconstruction Services for the County for the Project(s), the County shall pay to Contractor on an hourly basis in an amount **not to exceed Eighty Thousand Dollars (\$80,000.00)** ("**Preconstruction Services Payment(s)**"), based on the undisputed amount of Work performed and approved by the County pursuant to the scope and provisions in **Exhibit A** to this Agreement and as indicated here:

<u>Job Title</u>	<u>Hourly Rate</u>
Project Executive	\$130/Hour
Project Manager	\$90/Hour
Project Superintendent	\$90/Hour
Project Engineer	\$65/Hour
Estimator	\$90/Hour
Preconstruction Manager	\$100/Hour

1.2. The Preconstruction Services Payments include all costs and expenses for all time and materials required and expended to provide the specific Preconstruction Services including but not limited to the costs of hiring sub-consultants, contractors and other professionals, review of the Project, Plans and Specifications, review and preparation of necessary documentation relating to the development of the Project, meetings with County and its representatives, long distance telephone charges, travel costs, copying costs, salaries of Contractor staff and employees working on the Project, overhead, and any other reasonable expenses incurred by Contractor in performance of the Preconstruction Services.

1.3. Each Preconstruction Services Payment shall be paid within forth-five (45) days upon submittal to (and verification by) the County of a monthly billing statement showing completion of the billed-for tasks. Each of Contractor's billing statements shall be itemized and satisfactorily demonstrate the amount and value of work performed for each task during the Preconstruction services in the preceding month.

2. Guaranteed Maximum Price (or Guaranteed Project Cost). Contractor will cause the Project to be constructed for a guaranteed maximum price to be determined ("**Guaranteed Project Cost**" or "**GPC**" or "**Guaranteed Maximum Price**" or "**GMP**" or "**Contract Price**"). Prior to Completion of Contractor's Preconstruction Services, the Contractor and County shall amend the Agreement to include the GMP. Except as indicated herein for modifications to the Project approved by the County, Contractor will not seek additional compensation from County in excess of Guaranteed Project Cost. County shall pay the Guaranteed Project Cost to Contractor as provided in the Contract Documents. The Guaranteed Project Cost includes the following components and as further detailed herein:

2.1. Guaranteed Maximum Price for Separate Phases of the Project.

2.1.1. The Project shall include multiple phases which shall be phased and priced separately during Preconstruction Services as follows:

2.1.1.1. The GMP for Phase 1 shall be **[Insert Number]** (\$**[Insert Numeric]**).

2.1.1.2. **[REPEAT AS NECESSARY FOR SEPARATE PHASES OF THE PROJECT]**.

2.2. Cost to Perform Work.

2.2.1. **Subcontract Costs.** Payments made by the Contractor to Subcontractors, which payments shall be made in accordance with the requirements of the Contract Documents. Contractor's mark-up for Subcontractor-performed work shall not exceed **Five and One-Half Percent (5.5%)**, inclusive of any changes to the Work pursuant to the Contract Documents.

2.2.2. **Contractor-Performed Work.** Costs incurred by the Contractor for self-performed work. Contractor's mark-up for Contractor-performed work shall not exceed **Five and One-Half Percent (5.5%)**, inclusive of any changes to the Work pursuant to the Contract Documents.

2.2.3. **General Conditions.** The fixed amount to be paid for all costs for labor, equipment and materials for the items identified therein which are necessary for the proper management of the Project, and shall include all costs paid or incurred by the Contractor for insurance (except for general liability insurance), permits, taxes, and all contributions, assessments and benefits, holidays, vacations, retirement benefits, and incentives, whether required by law or collective bargaining agreements or otherwise paid or provided by Contractor to its employees. The County reserves the right to request changes to the personnel, equipment, or facilities provided as General Conditions as may be necessary or appropriate for the proper management of the Project, in which case, the cost of General Conditions shall be increased or reduced accordingly.

2.2.3.1. Contractors' General Conditions for the Project are **One Million Six Hundred and Ten Thousand Dollars (\$1,610,000)** and as indicated here:

Labor Costs	\$1,175,000
Materials	\$120,000
Equipment	\$240,000
Temporary Facilities	\$75,000

2.2.4. **Fees.** All fees, assessments and charges that are required to be paid to other agencies or entities to permit, authorize or entitle construction, reconstruction or completion of the Project.

2.2.5. **Bonds and Insurance.** Bonds and insurance costs shall not exceed **Two and Forty-Five Hundredths Percent (2.45%)** of the Contractor's direct costs, inclusive of changes to the Work as provided for in the Contract Documents, and shall be broken down as follows:

2.2.5.1. Bond costs shall not exceed **Eight Hundredths of a Percent (.8%)** of Contractor's direct costs.

2.2.5.2. Insurance costs shall not exceed **One Percent (1%)** of Contractor's direct costs.

2.2.5.3. Builder's Risk Insurance costs shall not exceed **Sixty-Five Hundredths of a Percent (.65%)** of Contractors direct costs.

2.2.6. **Overhead and Profit.** **Five and Half of a Percent (5.5%)** of Contractor's direct costs.

2.3. Allowances. [IDENTIFY SPECIFIC SCOPES AND AMOUNTS.]

2.4. **Payment of Contract Price.** County shall pay the Contract Price to Contractor pursuant to the Contract Documents.

3. Changes to Guaranteed Project Cost.

3.1. As indicated in the Agreement, the Parties may add or remove specific scopes of work from the Project. Based on these change(s), the Parties may agree to a reduction or increase in the Guaranteed Project Cost. If a cost impact or a change is agreed to by the Parties, it shall be reflected as a reduction or increase in the progress payments and paid upon the payment request from the Contractor when the work is performed or deducted from the next payment request from the Contractor, as applicable.

3.2. The Parties acknowledge that the Guaranteed Project Cost is based on the Contract Documents, including the Plans and Specifications.

3.3. Cost Savings. Contractor shall work cooperatively with Architect, subcontractors and County, in good faith, to identify appropriate opportunities to reduce Project costs and promote cost savings. Any identified cost savings from the Guaranteed Project Cost shall be identified by Contractor, and if approved in writing by the County, that cost savings shall be deducted from the Guaranteed Project Cost. If any cost savings require revisions to the Construction Documents, Contractor shall work with the County with respect to revising the Construction Documents. At the County's discretion, any reasonable cost incurred by County and/or the Contractor for those revisions may be paid for out of the identified savings before it is deducted from the Guaranteed Project Cost. Contractor shall be entitled to an extension of Contract Time equal to the delay in Project Completion caused by any cost savings adopted by County, if requested in writing before the approval of the cost savings.

3.4. Insurance and Bond Reimbursements. At Project Completion, Contractor shall require reimbursement from its insurance brokers and/or insurers and its bond brokers and/or sureties, all portions of Contractor's bond premiums, either paid or to be paid, that are not at-risk due to a reduction in the Guaranteed Project Cost. Contractor agrees that all amounts of premium reimbursement that Contractor receives from the Contractor's insurance brokers and/or insurers and its bond brokers and or sureties, shall be withheld by County from Contractor's payments. The County shall in good faith based, and upon reasonably available information, estimate this amount until Contractor indicates what the total amount of this reimbursement.

**EXHIBIT C
TO AGREEMENT**

CONSTRUCTION SCHEDULE(S) AND PHASING PLAN

Preconstruction Services. The schedule for the Preconstruction Services is as follows based on the issuance of a Notice to Proceed for these services:

- Contractor shall commence the Preconstruction Services on or before **September 18, 2019** and
- Contractor shall complete the Preconstruction Services on or before **March 28th, 2020**
- The term “complete” as used in reference to Preconstruction Services shall be defined as the date upon which Contractor completes all Preconstruction Services as provided in **Exhibit A** to this Agreement.

Construction Schedule. The Construction Schedule is as follows: **EXCEPT FOR SPECIFIC DATES INDICATED BELOW, IF ANY, THE CONSTRUCTION SCHEDULE SHALL BE DEVELOPED AND AGREED TO BY THE PARTIES DURING THE PRELIMINARY SERVICES PHASE AND ATTACHED HERETO AT THAT TIME.**

The County reserves the right to issue multiple Notices to Proceed in connection with the various phases of the Project, and the Parties agree that the Construction Schedule for the Project, or each phase therein, may be adjusted accordingly.

- It is hereby understood and agreed that assuming the County issues a Notice to Proceed for the construction of the Project on or before **April 1st, 2020**, then:
 - County shall have Beneficial Occupancy of the Project on or before **TBD at later date following pre-construction schedule** and
 - Project Completion shall be on or before **TBD at later date following pre-construction schedule.**
- At the conclusion of the Preconstruction Services, the County and Contractor shall amend the Agreement to include: (1) a detailed Project Construction Schedule with a duration no longer than the Contract Time, and with specific milestones that Contractor shall meet; (2) a detailed phasing plan for the Project.

Phasing Plan. Below is a **draft** phasing plan for the Project. The Parties may amend the phasing plan at the conclusion of the Preconstruction Services based upon changes to the scope and sequencing of the Work.

[INSERT PHASING PLAN]

**EXHIBIT D
TO AGREEMENT**

SCHEDULE OF VALUES

Attached is a detailed Schedule of Values that complies with the requirements of the General Conditions and that has been approved by the County.

At the conclusion of the Preconstruction Services, the Parties will amend the Agreement to include the Schedule of Values for the Project.

**EXHIBIT E
TO AGREEMENT**

FEDERAL CONTRACTING REQUIREMENTS

1. **Access to Records and Reports.** The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the County, the FAA and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the Project for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this Agreement for a period of not less than three years after final payment is made and all pending matters are closed.
2. **Breach of Contract Terms.**
 - 2.1. To the extent that the provisions regarding default and breach in the Contract Documents are more specific, those provisions shall control to the extent that they are consistent with this provision.
 - 2.2. Any violation or breach of terms of this Agreement on the part of the Contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the County.
 - 2.3. County will provide Contractor written notice that describes the nature of the breach and corrective actions the Contractor must undertake in order to avoid termination of the contract. County reserves the right to withhold payments to Contractor until such time the Contractor corrects the breach or the County elects to terminate the contract. The County's notice will identify a specific date by which the Contractor must correct the breach. County may proceed with termination of the contract if the Contractor fails to correct the breach by the deadline indicated in the County's notice.
 - 2.4. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.
3. **General Civil Rights Provision.**
 - 3.1. The Contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.
 - 3.2. This provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.
4. **Compliance with Nondiscrimination Requirements.**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

 - 4.1. **Compliance with Regulations.** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

- 4.2. **Nondiscrimination.** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
- 4.3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment.** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
- 4.4. **Information and Reports.** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- 4.5. **Sanctions for Noncompliance.** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
- 4.5.1. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
- 4.5.2. Cancelling, terminating, or suspending a contract, in whole or in part.
- 4.6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.
5. **Title VI List of Pertinent Nondiscrimination Acts and Authorities.** During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:
- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
 - 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
 - The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
 - Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;

- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 *et seq.*).

6. Clean Air and Water Pollution Control.

- 6.1. Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC § 740-7671q) and the Federal Water Pollution Control Act as amended (33 USC § 1251-1387). The Contractor agrees to report any violation to the County immediately upon discovery. The County assumes responsibility for notifying the Environmental Protection Agency (EPA) and the FAA.
- 6.2. Contractor must include this requirement in all subcontracts that exceeds \$150,000.

7. Contract Workhours and Safety Standards Act Requirements.

- 7.1. **Overtime Requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- 7.2. **Violation; Liability for Unpaid Wages; Liquidated Damages.** In the event of any violation of the clause set forth in paragraph (1) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.

- 7.3. **Withholding for Unpaid Wages and Liquidated Damages.** The Federal Aviation Administration (FAA) or the Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this clause.
- 7.4. **Subcontractors.** The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this clause.
8. **Copeland "Anti-Kickback" Act.** Contractor must comply with the requirements of the Copeland "Anti-Kickback" Act (18 USC 874 and 40 USC 3145), as supplemented by Department of Labor regulation 29 CFR part 3. Contractor and subcontractors are prohibited from inducing, by any means, any person employed on the project to give up any part of the compensation to which the employee is entitled. The Contractor and each Subcontractor must submit to the Owner, a weekly statement on the wages paid to each employee performing on covered work during the prior week. Owner must report any violations of the Act to the Federal Aviation Administration.
9. **Davis-Bacon Requirements.**

1. Minimum Wages. (Applicable to the extent any Davis-Bacon wages are higher than California prevailing wages for the same classification)

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an

additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination;*
- (2) The classification is utilized in the area by the construction industry; and*
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.*

(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the Contractor, the laborers, or mechanics to be employed in the classification, or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program: Provided that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding.

The Federal Aviation Administration or the sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working

on the site of work, all or part of the wages required by the contract, the Federal Aviation Administration may, after written notice to the Contractor, Sponsor, Applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and Basic Records.

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records that show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and that show the costs anticipated or the actual costs incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at www.dol.gov/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit them to the applicant, sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, Sponsor, or Owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) The payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information is correct and complete;

(2) Each laborer and mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations 29 CFR Part 3;

(3) Each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The Contractor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the sponsor, the Federal Aviation Administration, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, Sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable

apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal Employment Opportunity. The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act Requirements.

The Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

6. Subcontracts.

The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR Part 5.5(a)(1) through (10) and such other clauses as the Federal Aviation Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 5.5.

7. Contract Termination: Debarment.

A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes Concerning Labor Standards.

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of Eligibility.

(i) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC 1001.

10. Texting When Driving.

10.1. In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving", (10/1/2009) and DOT Order 3902.10, "Text Messaging While Driving", (12/30/2009), the FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

10.2. In support of this initiative, the County encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding \$3,500 that involve driving a motor vehicle in performance of work activities associated with the project.

11. Equal Opportunity Clause.

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

(1) 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 ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or 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 setting forth the provisions of this nondiscrimination clause.

(2) 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 considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

12. Standard Federal Equal Employment Opportunity Construction Contract Specifications.

1. As used in these specifications:

- a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
- b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;
- c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
- a. "Minority" includes:
 - (1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race);
 - (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(4) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR part 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors shall be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in a geographical area where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement nor the failure by a union with whom the Contractor has a collective bargaining agreement to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by the Contractor during the training period and the Contractor shall have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore along with whatever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or female sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions, including specific review of these items, with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other contractors and subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students; and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations, such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's workforce.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are non-segregated except that separate or single user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a contractor association, joint contractor union, contractor community, or other similar groups of which the Contractor is a member and participant may be asserted as fulfilling any one or more of its obligations under 7a through 7p of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, if the particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally), the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized.

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to

comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR part 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone number, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

13. Prohibition of Segregated Facilities.

13.1. The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Employment Opportunity clause in this contract.

13.2. "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

13.3. The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Employment Opportunity clause of this contract.

14. Procurement of Recovered Materials. Contractor and subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Contractor and subcontractors are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

14.1. The contract requires procurement of \$10,000 or more of a designated item during the fiscal year; or

14.2. The contractor has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products.

Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the contractor can demonstrate the item is:

- 14.3. Not reasonably available within a timeframe providing for compliance with the contract performance schedule;
- 14.4. Fails to meet reasonable contract performance requirements; or
- 14.5. Is only available at an unreasonable price.
15. **Right to Inventions.** Contracts or agreements that include the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the Owner in any resulting invention as established by 37 CFR part 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements. This contract incorporates by reference the patent and inventions rights as specified within 37 CFR §401.14. Contractor must include this requirement in all sub-tier contracts involving experimental, developmental, or research work.
16. **Seismic Safety.** The Contractor agrees to ensure that all work performed under this contract, including work performed by subcontractors, conforms to a building code standard that provides a level of seismic safety substantially equivalent to standards established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety.
17. **Disadvantaged Business Enterprises.** The Contractor agrees to adhere to following provisions related to Disabled Business Enterprises (“DBE”):
- 17.1. **Contract Assurance.** The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of Department of Transportation-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Owner deems appropriate, which may include, but is not limited to:
- 17.1.1. Withholding monthly progress payments;
- 17.1.2. Assessing sanctions;
- 17.1.3. Liquidated damages; and/or
- 17.1.4. Disqualifying the Contractor from future bidding as non-responsible.
- 17.2. **Prompt Payment.** Will be applicable following pre-construction services. The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime contractor receives from Sonoma County. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) days after the subcontractor’s work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Sonoma County. This clause applies to both DBE and non-DBE subcontractors.

DOCUMENT 00 54 40

CERTIFICATIONS TO BE COMPLETED BY CONTRACTOR

Charles M. Schulz Sonoma County Airport Terminal Redevelopment Project ("Project" or "Contract")

THE UNDERSIGNED MUST CHECK EACH BOX AND EXECUTE THIS FORM AND HEREBY CERTIFIES TO THE GOVERNING BOARD OF THE COUNTY THAT:

- He/she is a representative of the Contractor,
- He/she is familiar with the facts herein certified and acknowledged,
- He/she is authorized and qualified to execute this Agreement and these certifications on behalf of Contractor and that by executing this Agreement he/she is certifying the following items.

☐ **Labor Code Sections 1860-1861 (Workers' Compensation).** In accordance with Labor Code section 3700, every contractor will be required to secure the payment of compensation to his or her employees. I certify that I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

☐ **Government Code Sections 8355-8357 (Drug-Free Workplace).** I certify that I will provide a drug-free workplace by doing all of the following:

- (1) 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.
- (2) Establishing a drug-free awareness program to inform employees about all of the following:
 - (A) The dangers of drug abuse in the workplace.
 - (B) The person's or organization's policy of maintaining a drug-free workplace.
 - (C) Any available drug counseling, rehabilitation, and employee assistance programs.
 - (D) The penalties that may be imposed upon employees for drug abuse violations.
- (3) Requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required by subdivision (a) and that, as a condition of employment on the contract or grant, the employee agrees to abide by the terms of the statement.

I also acknowledge that this Contract may be subject to suspension of payments under the contract or grant or termination of the contract or grant, or both, and the contractor or grantee thereunder may be subject to debarment, in accordance with the requirements of the above-referenced statute, if the contracting or granting agency determines that any of the following has occurred:

- (1) The contractor or grantee has made a false certification under Section 8355.
- (2) The contractor or grantee violates the certification by failing to carry out the requirements of subdivisions (a) to (c), inclusive, of Section 8355.

I also acknowledge that the Department of General Services shall establish and maintain a list of individuals and organizations whose contracts or grants have been canceled due to failure to comply with the above-referenced statute. This list shall be updated monthly and published each month. No state agency shall award a contract or grant to a person or organization on the published list until that person or organization has complied with the above-referenced statute.

☐ **Tobacco-Free Environment.** Pursuant to, without limitation, 20 U.S.C. section 6083, Labor Code section 6400 et seq., Health & Safety Code section 104350 et seq. and Policies, all County sites, including the Project site, are

tobacco-free environments. Smoking and the use of tobacco products by all persons is prohibited on or in County property. County property includes buildings, grounds, owned vehicles and vehicles owned by others while on County property. I acknowledge that I am aware of the County's policy regarding tobacco-free environments at County sites, including the Project site and certify that I will adhere to the requirements of that policy and not permit any of my firm's employees, agents, subcontractors, or my firm's subcontractors' employees or agents to use tobacco and/or smoke on the Project site. The County also prohibits the electronic cigarettes, "vaping" or similar product uses on County sites.

☐ **No Hazardous Materials.** I certify that no Asbestos, or Asbestos-Containing Materials, polychlorinated biphenyl (PCB), or any material listed by the federal or state Environmental Protection Agency or federal or state health agencies as a hazardous material, or any other material defined as being hazardous under federal or state laws, rules, or regulations ("New Hazardous Material"), shall be furnished, installed, or incorporated in any way into the Project or in any tools, devices, clothing, or equipment used to affect any portion of Contractor's work on the Project for County. I have instructed our employees with respect to the above-mentioned standards, hazards, risks, and liabilities.

- (i) Asbestos and/or asbestos-containing material shall be defined as all items containing but not limited to chrysotile, crocidolite, amosite, anthophyllite, tremolite, and actinolite. Any or all material containing greater than one-tenth of one percent (.1%) asbestos shall be defined as asbestos-containing material. Any disputes involving the question of whether or not material is New Hazardous Material shall be settled by electron microscopy or other appropriate and recognized testing procedure, at the County's determination. The costs of any such tests shall be paid by Contractor if the material is found to be New Hazardous Material.
- (ii) All Work or materials found to be New Hazardous Material or Work or material installed with equipment containing "New Hazardous Material," will be immediately rejected and this Work will be removed at Contractor's expense at no additional cost to the County.

☐ **Imported Materials.** All soils, aggregate, or related materials ("Fill") that Contractor, a Subcontractor, agent or supplier, in any way, provides or delivers and/or supplies to the Project Site shall be free of any and all hazardous material as defined in section 25260 of the Health and Safety Code, shall satisfy the requirements of any environmental review of the Project performed pursuant to the statutes and guidelines of the California Environment Quality Act, sections 21000 et seq. of the Public Resources Code ("CEQA"), and shall comply with the requirements for a Phase I environmental assessment acceptable to the Department of Toxic Substances Control. I acknowledge that, to the furthest extent permitted by California law, the indemnification provisions in the Contract Documents apply to, without limitation, any claim(s) connected with providing, delivering, and/or supplying Fill.

☐ **Tax Delinquency and Felony Convictions.** The Contractor must complete the following two certification statements. The Contractor must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (✓) in the space following the applicable response. The Contractor agrees that, if awarded a contract resulting from the RFQ/P, it will incorporate this provision for certification in all lower tier subcontracts.

- 1) The Contractor represents that it is () is not () a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
- 2) The Contractor represents that it is () is not () is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

Note: If the Contractor responds in the affirmative to either of the above representations, the applicant is ineligible to receive an award unless the sponsor has received notification from the agency suspension and debarment official (SDO) that the SDO has considered suspension or debarment and determined that further action is not required to protect the Government's interests. The Contractor therefore must provide information to the County about its tax liability or conviction to the County, who will then notify the FAA Airports District Office, which will then notify the agency's SDO to facilitate completion of the required considerations before award decisions are made.

Term Definitions:

Felony conviction: Felony conviction means a conviction within the preceding twenty-four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. § 3559.

Tax Delinquency: A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

I certify that I am duly authorized to legally bind the Contractor to this certification, that the contents of this certification are true, and that this certification is made under the laws of the State of California.

Date: _____

Proper Name of Contractor: _____

Signature: _____

Print Name: _____

Title: _____

END OF DOCUMENT

DOCUMENT 00 54 70

STORM WATER POLLUTION PREVENTION PLAN

TIS CONTRACT WILL HAVE PRE-CONSTRUCTION DEVELOPMENT OF THE SWPPP IN COORDINATION WITH ARCHITECT AND CIVIL OF RECORD. THIS WILL BE DEVELOPED AND REFINED AFTER PRE-CONSTRUCTION. IF THE COUNTY HAS A STORM WATER POLLUTION PREVENTION PLAN (SWPPP), THE COUNTY SHOULD INCLUDE REFERENCE TO ITS SWPPP HERE OR ATTACH A COPY OF THE SWPPP.

IF THE COUNTY DOES NOT HAVE AN SWPPP ON THE PROJECT, THE COUNTY CAN STATE "NOT APPLICABLE" HERE.

IF THE COUNTY INTENDS TO HAVE THE CONTRACTOR BE ITS QUALIFIED SWPPP PRACTITIONER, IT SHOULD STATE THAT HERE ALSO.

ALSO, THERE ARE SWPPP REQUIREMENTS IN THE FOLLOWING DOCUMENTS:

- DOCUMENT 00 73 00 (SUPPLEMENTARY CONDITIONS)
- DIVISION ONE DOCUMENTS THAT REFER TO STORM WATER POLLUTION PREVENTION PLAN(S)

END OF DOCUMENT

DOCUMENT 00 55 10

NOTICE TO PROCEED

Dated: _____, 20__

To: _____
("Contractor")

(Address)

From: Governing Board ("Board") of County of Sonoma ("County")

Re: **Charles M. Schulz Sonoma County Airport Terminal Redevelopment Project**
("Project" or "Contract")

Contractor is hereby notified that it is to proceed with Preconstruction Services. The County reserves the right to issue multiple Notices to Proceed by each phase for Construction Services as outlined in the Contract Documents,

Contractor is hereby notified that the Contract Time under the Contract will commence to run on _____, 20__. By that date, Contractor shall start performing its obligations under the Contract Documents. In accordance with the Agreement executed by Contractor, the Contract Time and Project Completion is _____, 20__. **[ENSURE THIS PARAGRAPH IS CONSISTENT WITH THE "TIME OF COMPLETION" SECTION OF THE AGREEMENT (DOCUMENT 00 45 10)]**

Contractor must submit the following documents by 5:00 p.m. of the **TENTH (10TH)** calendar day following the date of this Notice to Proceed:

1. Contractor's preliminary schedule of construction.
2. Contractor's preliminary schedule of submittals, including Shop Drawings, Product Data, and Samples submittals.
3. Contractor's preliminary schedule of values for all of the Work.
4. Contractor's preliminary Contractor's Safety Plan specifically adapted for the Project.
5. A complete subcontractors list, including the name, address, telephone number, facsimile number, California State Contractor's License number, classification, and monetary value of all Subcontracts.

Thank you. We look forward to a successful Project.

County of Sonoma

BY: _____

NAME: _____

TITLE: _____

END OF DOCUMENT

DOCUMENT 00 61 14

PERFORMANCE BOND (100% of Contract Price)

(Note: Contractors must use this form, NOT a surety company form.)

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, the governing board ("Board") of the County of Sonoma, ("County") and _____
_____, ("Principal") have entered into a contract for the furnishing of all materials and labor, services
and transportation, necessary, convenient, and proper to perform the following project:

Charles M. Schulz Sonoma County Airport Terminal Redevelopment Project
("Project" or "Contract")

which Contract dated _____, 20____, and all of the Contract Documents attached to or
forming a part of the Contract, are hereby referred to and made a part hereof, and

WHEREAS, said Principal is required under the terms of the Contract to furnish a bond for the faithful performance
of the Contract;

NOW, THEREFORE, the Principal and _____ ("Surety") are held and
firmly bound unto the Board of the County in the penal sum of:

_____ DOLLARS

(\$ _____), lawful money of the United States, for the payment of which sum well and
truly to be made we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and
severally, firmly by these presents, to:

- Perform all the work required to complete the Project; and
- Pay to the County all damages the County incurs as a result of the Principal's failure to perform all the
Work required to complete the Project.

In the event the Principal is declared by the County to be in breach or default in the performance of the Contract,
then, after written notice from the County to the Surety, as provided for herein, the Surety shall either remedy the
default or breach of the Principal or shall take charge of the Work of the Contract and complete the Contract with
a Contractor other than the Principal at its own expense; provided, however, that the procedure by which the
Surety undertakes to discharge its obligations under this Bond shall be subject to the advance written approval of
the County.

The condition of the obligation is such that, if the above bounden Principal, his or its heirs, executors,
administrators, successors, or assigns, shall in all things stand to and abide by, and well and truly keep and perform
the covenants, conditions, and agreements in the Contract and any alteration thereof made as therein provided,
on his or its part to be kept and performed at the time and in the intent and meaning, including all contractual
guarantees and warranties of materials and workmanship, and shall indemnify and save harmless the County, its
trustees, officers and agents, as therein stipulated, then this obligation shall become null and void, otherwise it
shall be and remain in full force and virtue.

As a condition precedent to the satisfactory completion of the Contract, the above obligation shall hold good for a
period equal to the warranty and/or guarantee period of the Contract, during which time Surety's obligation shall
continue if Contractor shall fail to make full, complete, and satisfactory repair, replace, and totally protect the
County from loss or damage resulting from or caused by defective materials or faulty workmanship. The
obligations of Surety hereunder shall continue so long as any obligation of Contractor remains. Nothing herein
shall limit the County's rights or the Contractor's or Surety's obligations under the Contract, law or equity,

including, but not limited to, California Code of Civil Procedure section 337.15.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract or to the Work to be performed thereunder 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 Contract Documents or to the Work.

Any claims under this bond may be addressed to the Surety at the following address. This cannot be the Contractor's broker for this bond, but must be an employee of the Surety or the Surety's legal counsel:

Attention: _____

Telephone No.: (____) ____ - _____

Fax No.: (____) ____ - _____

E-mail Address: _____

IN WITNESS WHEREOF, two (2) identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety above named, on the _____ day of _____, 20____.

Principal

Surety

(Name of Principal)

(Name of Surety)

(Signature of Person with Authority)

(Signature of Person with Authority)

(Print Name)

(Print Name)

(Name of California Agent of Surety)

(Address of California Agent of Surety)

(Telephone Number of California Agent of Surety)

Contractor must attach a Notarial Acknowledgment for all Surety's signatures and a Power of Attorney and Certificate of Authority for Surety. The California Department of Insurance must authorize the Surety to be an admitted surety insurer.

END OF DOCUMENT

DOCUMENT 00 61 15

PAYMENT BOND -- Contractor's Labor & Material Bond (100% of Contract Price)

(Note: Contractors must use this form, NOT a surety company form.)

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, the governing board ("Board") of the County of Sonoma, (or "County") and _____, ("Principal") have entered into a contract for the furnishing of all materials and labor, services and transportation, necessary, convenient, and proper to

Charles M. Schulz Sonoma County Airport Terminal Redevelopment Project
("Project" or "Contract")

which Contract dated _____, 20____, and all of the Contract Documents attached to or forming a part of the Contract, are hereby referred to and made a part hereof, and

WHEREAS, pursuant to law and the Contract, the Principal is required, before entering upon the performance of the work, to file a good and sufficient bond with the body by which the Contract is awarded in an amount equal to 100 percent (100%) of the Contract price, to secure the claims to which reference is made in the Civil Code of California, including section 9100, and the Labor Code of California, including section 1741.

NOW, THEREFORE, the Principal and _____, ("Surety") are held and firmly bound unto all laborers, material men, and other persons referred to in said statutes in the penal sum of:

_____ DOLLARS

(\$ _____), lawful money of the United States, being a sum not less than the total amount payable by the terms of Contract, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, or assigns, jointly and severally, by these presents.

The condition of this obligation is that if the Principal or any of his or its subcontractors, of the heirs, executors, administrators, successors, or assigns of any, all, or either of them shall fail to pay for any labor, materials, provisions, provender, or other supplies, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that the Surety will pay the same in an amount not exceeding the amount herein above set forth, and also in case suit is brought upon this bond, will pay a reasonable attorney's fee to be awarded and fixed by the Court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under sections 9000 through 9566 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void; otherwise it shall be and remain in full force and affect.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract or to the Work to be performed thereunder 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 Contract Documents or to the Work.

IN WITNESS WHEREOF, two (2) identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety above named, on the _____ day of _____, 20____.

Principal

Surety

(Name of Principal)

(Name of Surety)

(Signature of Person with Authority)

(Signature of Person with Authority)

(Print Name)

(Print Name)

(Name of California Agent of Surety)

(Address of California Agent of Surety)

(Telephone Number of California Agent of Surety)

Contractor must attach a Notarial Acknowledgment for all Surety's signatures and a Power of Attorney and Certificate of Authority for Surety. The California Department of Insurance must authorize the Surety to be an admitted surety insurer.

END OF DOCUMENT

DOCUMENT 00 63 00

COUNTY CONTRACT FORMS

THESE FORMS TO BE DEVELOPED DURING CONSTRUCTION SERVICES. IF THE COUNTY HAS SPECIFIC FORMS THAT IT WISHES THE CONTRACTOR TO USE (E.G., PAYMENT APPLICATION FORM, CHANGE ORDER FORM, RFI FORM, ETC.) ATTACH THOSE HERE.

IF THE COUNTY DOES NOT HAVE SPECIFIC FORMS IT WISHES THE CONTRACTOR TO USE, THE COUNTY CAN STATE "NOT APPLICABLE" HERE.]

END OF DOCUMENT

DOCUMENT 00 65 00

COUNTY CLOSEOUT FORMS

THESE WILL BE APPLICABLE AT THE CLOSE OF ALL PHASES. IF THE COUNTY HAS SPECIFIC FORMS THAT IT WISHES THE CONTRACTOR TO USE FOR CLOSEOUT (E.G., KEY LOG, COMMISSIONING CERTIFICATION, ETC.) ATTACH THOSE HERE.

IF THE COUNTY DOES NOT HAVE SPECIFIC FORMS IT WISHES THE CONTRACTOR TO USE, THE COUNTY CAN STATE "NOT APPLICABLE" HERE.

END OF DOCUMENT

DOCUMENT 00 65 36

WARRANTY AND GUARANTEE FORM

1. _____ ("Contractor")
hereby agrees that the _____ ("Work" of Contractor)
which Contractor has installed for the County of Sonoma ("County")
for the following project: _____ ("Project" or "Contract")
was performed in accordance with the requirements of the Contract Documents and that the Work as
installed fulfills the requirements of the Contract Documents.
2. Contractor agrees to repair or replace all of the Work that may prove to be defective in workmanship or
material and any other adjacent Work that may be displaced in connection with such replacement within a
period of **ONE YEAR** from the date of Completion as defined in the Contract, ordinary wear and tear and
unusual abuse or neglect excepted, except where detailed specifications for certain materials, equipment or
systems require longer warranty periods. The date of completion is _____, 20____.
3. Contractor and a County's representative at the **10th MONTH** to inspect the Project for deficiencies that
require correction. Contractor shall repair those deficiencies and any defective workmanship that are under
warranty in accordance with the Contract Documents.
4. In the event Contractor fails to comply with the above-mentioned conditions within a reasonable period of
time, as determined by County, but not later than **SEVEN (7)** calendar days after being notified in writing by
County, Contractor authorizes County to proceed to repair or replace the defective Work at the expense of
Contractor. Contractor shall pay the costs and charges therefor upon demand.
5. **Representatives to be contacted for service subject to the terms of Contract:**

NAME: _____

ADDRESS: _____

PHONE NO.: _____

EMAIL: _____

Date: _____

Proper Name of Contractor: _____

Signature: _____

Print Name: _____

Title: _____

END OF DOCUMENT

DOCUMENT 00 72 13

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1. CONTRACT TERMS AND DEFINITIONS

1.1. Definitions

Wherever used in the Contract Documents, the following terms shall have the meanings indicated, which shall be applicable to both the singular and plural thereof:

- 1.1.1. Adverse Weather:** Shall be only weather that satisfies all of the following conditions: (1) unusually severe precipitation, sleet, snow, hail, heat, or cold conditions in excess of the norm for the location and time of year it occurred, (2) unanticipated, and (3) occurring at the Project Site.
- 1.1.2. Airport:** Land and improvements located on and within the confines of the airport with which the Project is associated, if applicable.
- 1.1.3. Allowance(s):** Amount(s) stated in the Contract Documents for specific scopes of work that, if used at all, will be to pay for the cost of construction of a scope of work identified at the time the Allowance is utilized.
- 1.1.4. Approval, Approved, and/or Accepted:** Refer to written authorization, unless stated otherwise.
- 1.1.5. Architect:** The individual, partnership, corporation, joint venture, or any combination thereof, named as Architect that has the rights and authority assigned to the Architect in the Contract Documents. The term Architect means the County's Architect on this Project or the Architect's authorized representative. The Architect may be a landscape architect, at the County's discretion
- 1.1.6. As-Built Drawings:** A reproducible full-size sets of drawings to be prepared on a monthly basis, and upon Project Completion, pursuant to the Contract Documents, that reflect changes made during the performance of the Work, recording differences between the original design of the Work and the Work as constructed since the preceding monthly submittal.
- 1.1.7. Beneficial Occupancy:** Occupancy of the Project by the County for its intended purpose and which produces relatively little interference with the Contractor in completing construction. The County's occupancy shall not constitute Beneficial Occupancy unless the County, at its sole discretion, expresses in writing that its occupancy of all or a portion of the Project constitutes Beneficial Occupancy.
- 1.1.8. Change Order:** A written order to the Contractor authorizing an addition to, deletion from, or revision in the Work, and/or authorizing an adjustment in the Contract Price or Contract Time.
- 1.1.9. Completion:** When the entire Work shall have been completed to the satisfaction of County, including all punch list items.
- 1.1.10. Construction Manager (or "Project Manager"):** The individual, partnership, corporation, joint venture, or any combination thereof, or its authorized representative, named as such by the County. If no Construction Manager is used on the Project that is the subject of this Contract, then all references in the Contract Documents to Construction Manager shall be read to refer to County.
- 1.1.11. Construction Schedule:** The progress schedule of construction of the Project as provided by Contractor and approved by County.
- 1.1.12. Contract, Contract Documents:** The Contract consists exclusively of the documents evidencing the agreement of the County and Contractor, identified as the Contract Documents. The Contract Documents consist of the following documents:
- 1.1.13. Contract Price (or, if used, "GPC" or "Guaranteed Project Cost" or "Guaranteed Maximum Price" or "GMP"):** The total monies payable to the Contractor under the terms and conditions of the

Contract Documents.

1.1.14. Contract Time: The time period stated in the Contract Documents for Project Completion.

1.1.15. Contractor: The entity identified in the Contract Documents as contracting to perform the Work to be done under this Contract.

1.1.16. County: The public agency for which the Work is performed. The governing board of the County or its designees will act for the County in all matters pertaining to the Contract. The County may, at any time,

1.1.16.1. Direct the Contractor to communicate with or provide notice to the Construction Manager or the Architect on matters for which the Contract Documents indicate the Contractor will communicate with or provide notice to the County; and/or

1.1.16.2. Direct the Construction Manager or the Architect to communicate with or direct the Contractor on matters for which the Contract Documents indicate the County will communicate with or direct the Contractor.

1.1.17. Daily Job Report(s): Daily Project reports prepared by the Contractor's employee(s) who are present on Site, which shall include the information required herein.

1.1.18. Day(s): Unless otherwise designated, day(s) means calendar day(s). “**Business Days**” shall mean days except Saturday, Sunday, a day that is federally-recognized holiday, or a day that is a California-recognized holiday

1.1.19. Defective or Nonconforming Work. Defective or nonconforming Work is any Work which is unsatisfactory, faulty or deficient by: (a) not conforming to the requirements of the Contract Documents; (b) not conforming to the standards of workmanship of the applicable trade; (c) not being in compliance with the requirements of any inspection, reference, standard, test, or approval required by the Contract Documents; or (d) damage to Work occurring prior to Completion.

1.1.20. Drawings (or “Plans”): The graphic and pictorial portions of the Contract Documents showing the design, location, scope and dimensions of the Work, generally including plans, elevations, sections, details, schedules, sequence of operation, and diagrams.

1.1.21. Force Account Directive: A process that may be used when the County and the Contractor cannot agree on a price for a specific scope of work or before Contractor prepares a price for the scope of work, Contractor performs on a time and materials basis.

1.1.22. Premises: The real property owned by the County on which the Project Site is located.

1.1.23. Product(s): New material, machinery, components, equipment, fixtures and systems forming the Work, including existing materials or components required and approved by the County for reuse.

1.1.24. Product Data: Illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate a material, product, or system for some portion of the Work.

1.1.25. Project: The planned undertaking as provided for in the Contract Documents.

1.1.26. Project Inspector (or “Inspector”): The individual(s) from the local jurisdiction(s) having authority that may be required by applicable law to monitor and inspect the Project.

1.1.27. Proposed Change Order: A written request prepared by the Contractor requesting that the

County and the Architect issue a Change Order based upon a proposed change to the Work.

1.1.28. Request for Information (or "RFI"): A written request prepared by the Contractor requesting that the Architect provide additional information necessary to clarify or amplify an item in the Contract Documents that the Contractor believes is not clearly shown or called for in the Drawings or Specifications or other portions of the Contract Documents, or to address problems that have arisen under field conditions.

1.1.29. Request for Substitution: A request by Contractor to substitute an equal or superior material, product, thing, or service for a specific material, product, thing, or service that has been designated in the Contract Documents by a specific brand or trade name.

1.1.30. Safety Orders: Written and/or verbal orders for construction issued by the California Division of Industrial Safety ("CalOSHA") or by the United States Occupational Safety and Health Administration ("OSHA").

1.1.31. Safety Plan: Contractor's safety plan specifically adapted for the Project. Contractor's Safety Plan shall comply with all provisions regarding Project safety, including all applicable provisions in the Contract Documents.

1.1.32. Samples: Physical examples that illustrate materials, products, equipment, finishes, colors, or workmanship and that, when approved in accordance with the Contract Documents, establish standards by which portions of the Work will be judged.

1.1.33. Shop Drawings: All drawings, prints, diagrams, illustrations, brochures, schedules, and other data that are prepared by the Contractor, a subcontractor, manufacturer, supplier, or distributor, that illustrate how specific portions of the Work shall be fabricated or installed.

1.1.34. Site: The Project Site(s) as shown on the Drawings.

1.1.35. Specifications: That portion of the Contract Documents, Division 1 through Division 49, and all technical sections, and addenda to all of these, if any, consisting of written descriptions and requirements of a technical nature of materials, equipment, construction methods and systems, standards, and workmanship.

1.1.36. Subcontractor: A contractor and/or supplier who is under contract with the Contractor or with any other subcontractor, regardless of tier, to perform a portion of the Work of the Project.

1.1.37. Submittal Schedule: The schedule of submittals as provided by Contractor and approved by County.

1.1.38. Surety: The person, firm, or corporation that executes as surety the Contractor's Performance Bond and Payment Bond, and must be a California admitted surety insurer as defined in the Code of Civil Procedure section 995.120.

1.1.39. SWPPP: The County's Storm Water Pollution Prevention Plan.

1.1.40. Terms. The term "provide" means "provide complete in place" or to "furnish and install" such item. Unless otherwise provided in the Contract Documents, the terms "approved;" "directed;" "satisfactory;" "accepted;" "acceptable;" "proper;" "required;" "necessary" and "equal" shall mean as approved, directed, satisfactory, accepted, acceptable, proper, required, necessary and equal, in the opinion of the County. The term "typical" as used in the Drawings shall require the installation or furnishing of such item(s) of the Work designated as "typical" in all other areas similarly marked as "typical"; Work in such other areas shall conform to that shown as "typical" or as reasonably inferable therefrom.

1.1.41. TSA: Transportation Security Administration agency of the U.S. Department of Homeland Security that oversees civil aviation security.

1.1.42. Unilateral Change Order: A written order prepared and issued by the County, the Construction Manager, and/or the Architect and signed by the County and the Architect, directing a change in the Work.

1.1.43. Work: All labor, materials, equipment, components, appliances, supervision, coordination, and services required by, or reasonably inferred from, the Contract Documents, that are necessary for Project Completion.

1.2. Laws Concerning the Contract

The Contract is subject to all provisions of the Constitution and laws of California and the United States, governing, controlling, or affecting County, or the property, funds, operations, or powers of County, and such provisions are by this reference made a part hereof. Any provision required by law to be included in this Contract shall be deemed to be inserted.

1.3. No Oral Agreements

No oral agreement or conversation with any officer, agent, or employee of County, either before or after execution of Contract, shall affect or modify any of the terms or obligations contained in the Contract Documents.

1.4. No Assignment

Except as specifically permitted in the Contract Documents, Contractor shall not assign the Contract or any part thereof including, without limitation, any services or money to become due hereunder without the prior written consent of the County. Assignment without County's prior written consent shall be null and void. Any assignment of money due or to be come due under the Contract shall be subject to a prior lien for services rendered or material supplied for Work performed in favor of all persons, firms, or corporations rendering services or supplying material to the extent that claims are filed pursuant to the Civil Code, Code of Civil Procedure, Government Code, Labor Code, and/or Public Contract Code, and shall also be subject to deductions for liquidated damages or withholding of payments as determined by County in accordance with the Contract. Contractor shall not assign or transfer in any manner to a Subcontractor or supplier the right to prosecute or maintain an action against the County.

1.5. Confidentiality

Contractor shall maintain the confidentiality of all information, documents, programs, procedures and all other items that Contractor encounters while performing the Work. This requirement shall be ongoing and shall survive the expiration or termination of the Contract and specifically includes, without limitation, all employee disciplinary information and health information.

1.6. Notice and Service Thereof

Any notice from one party to the other or otherwise under Contract shall be in writing and shall be dated and signed by the party giving notice or by a duly authorized representative of that party. Any notice shall not be effective for any purpose whatsoever unless served as indicated in the Contract Documents.

1.7. No Waiver

The failure of County in any one or more instances to insist upon strict performance of any term of the Contract or to exercise any option herein conferred shall not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon any term or option on any future occasion. No action or failure

to act by the County, Architect, or Construction Manager shall constitute a waiver of any right or duty afforded the County under the Contract, nor shall any action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

1.8. Substitutions for Specified Items

Contractor shall not substitute any items identified in the Contract Documents without complying with the procedures indicated in the Contract Documents and without prior written approval of the County.

1.9. Materials and Work

1.9.1. Except as otherwise specifically stated in the Contract, Contractor shall provide and pay for all materials, labor, tools, equipment, transportation, supervision, temporary constructions of every nature, and all other services, management, and facilities of every nature whatsoever necessary to execute and complete the Contract within the Contract Time.

1.9.2. Unless otherwise specified, all materials shall be new and the best of their respective kinds and grades as noted or specified, and workmanship shall be of good quality.

1.9.3. Materials shall be furnished in sufficient quantities and at such times as to insure uninterrupted progress of Work and shall be stored properly and protected as required.

1.9.4. For all materials and equipment specified or indicated in the Drawings, the Contractor shall provide all labor, materials, equipment, and services necessary for complete assemblies and complete working systems, functioning as intended, including incidental items not indicated on Drawings, nor mentioned in the Specifications, that can legitimately and reasonably be inferred to belong to the Work described, or be necessary in good practice to provide a complete assembly or system. In all instances, material and equipment shall be installed in strict accordance with each manufacturer's most recent published recommendations and specifications.

1.9.5. Contractor shall, after award of Contract by County and after relevant submittals have been approved, place orders for materials and/or equipment as specified so that delivery of same may be made without delays to the Work. Contractor shall, upon demand from County, present documentary evidence showing that orders have been placed.

1.9.6. County reserves the right but has no obligation, for any neglect in complying with the above instructions, to place orders for such materials and/or equipment as it may deem advisable in order that the Work may be completed at the date specified in the Contract Documents, and all expenses incidental to the procuring of said materials and/or equipment shall be paid for by Contractor or withheld from payment(s) to Contractor.

1.9.7. Contractor warrants good title to all material, supplies, and equipment installed or incorporated in Work and agrees upon Project Completion to deliver the Site to County, together with all improvements and appurtenances constructed or placed thereon by it, and free from any claims, liens, or charges. Contractor further agrees that neither it nor any person, firm, or corporation furnishing any materials or labor for any Work shall have any right to lien any portion of the Premises or any improvement or appurtenance thereon, except that Contractor may install metering devices or other equipment of utility companies or of political subdivision, title to which is commonly retained by utility company or political subdivision. In the event of installation of any such metering device or equipment, Contractor shall advise County as to owner thereof.

1.9.8. Nothing contained in this Article, however, shall defeat or impair the rights of persons furnishing materials or labor under any bond given by Contractor for their protection or any rights under any law permitting such protection or any rights under any law permitting such persons to look to funds due Contractor in hands of County (e.g., stop payment notices), and this provision shall be inserted in all

subcontracts and material contracts and notice of its provisions shall be given to all persons furnishing material for work when no formal contract is entered into for such material.

1.9.9. Title to new materials and/or equipment for the Work and attendant liability for its protection and safety shall remain with Contractor until incorporated in the Work of this Contract and accepted by County. No part of any materials and/or equipment shall be removed from its place of storage except for immediate installation in the Work. Contractor shall keep an accurate inventory of all materials and/or equipment in a manner satisfactory to County or its authorized representative and shall, at the County's request, forward it to the County.

1.9.10. Storage of Items Off-Site. The County may request that Contractor procure and store off-site certain equipment, supplies, and or materials. In addition, the Contractor may request that it be permitted to procure and store off-site certain equipment, supplies, and or materials. In either case, and before the County issues payment for those item(s), the Contractor shall comply with the insurance and/or bond requirements herein related to the storage of off-site items that the County has paid for and that the Contractor remains in possession of.

1.9.11. Contractor certifies that it shall comply with the recycled product requirements of Public Contract Code section 22150, et seq., including, without limitation, section 22154 which states, "All businesses shall certify in writing to the contracting officer, or his or her representative, the minimum, if not exact, percentage of postconsumer material in the products, materials, goods, or supplies being offered or sold to any local public entity."

2. COUNTY

2.1. The governing board of the County or its designees will act for the County in all matters pertaining to the Contract.

2.2. The County may, at any time,

2.2.1. Direct the Contractor to communicate with or provide notice to the Construction Manager or the Architect on matters for which the Contract Documents indicate the Contractor will communicate with or provide notice to the County; and/or

2.2.2. Direct the Construction Manager or the Architect to communicate with or direct the Contractor on matters for which the Contract Documents indicate the County will communicate with or direct the Contractor.

2.3. County's Rights if Contractor Fails to Perform. If the County at any time believes that the Contractor is behind schedule, is failing to construct the Project pursuant to the Contract Documents or is otherwise failing to perform any provisions of this Contract, the County, after FORTY-EIGHT (48) hours written notice to the Contractor, may take any action necessary or beneficial to the County to complete the Project, takeover the Work of the Contract, terminate or suspend the Contract as indicated herein, or any combination or portion of those actions. The Contractor and the Surety shall be liable to the County for any cost incurred by the County in those actions and the County has the right to deduct the cost thereof from any payment then or thereafter due the Contractor.

3. ARCHITECT

3.1. Architect shall have the authority to act on behalf of County to the extent expressly provided in the Contract Documents and to the extent determined by County to, among other things, observe the progress and quality of the Work on behalf of the County.

3.2. Architect shall have authority to reject materials, workmanship, and/or the Work whenever rejection may be necessary, in Architect's reasonable opinion, to insure the proper execution of the Contract and if Work is

defective or does not conform to the requirements of the Contract Documents. Whenever the Architect considers it necessary or advisable, for implementation of the intent of the Contract Documents, the Architect will have authority to require additional inspections or testing of the Work, whether or not such Work is fabricated, installed or completed. Neither this authority of the Architect nor a decision made in good faith by the Architect to exercise or not to exercise that authority shall give rise to a duty or responsibility to the Contractor, Subcontractors, material suppliers, their agents or employees, or other persons performing portions of the Work.

3.3. Architect shall, with the County and on behalf of the County, determine the amount, quality, acceptability, and fitness of all parts of the Work, and interpret the Specifications, Drawings, and shall, with the County, interpret all other Contract Documents.

3.4. Architect shall have all authority and responsibility established by law.

3.5. Contractor shall provide County and the Construction Manager with a copy of all written communication between Contractor and Architect at the same time as that communication is made to Architect, including, without limitation, all RFIs, correspondence, submittals, claims, and proposed change orders.

4. CONSTRUCTION MANAGER

4.1. If a Construction Manager is used on this Project, the Construction Manager will provide administration of the Contract on the County's behalf. After execution of the Contract, all correspondence and/or instructions from Contractor and/or County shall be forwarded through the Construction Manager. The Construction Manager will not be responsible for and will not have control or charge of construction means, methods, techniques, sequences, or procedures or for safety precautions in connection with the Work, which shall all remain the Contractor's responsibility.

4.2. The Construction Manager, however, will have authority to reject materials and/or workmanship not conforming to the Contract Documents, as determined by the County, the Architect, and/or the Inspector. The Construction Manager shall also have the authority to require special inspection or testing of any portion of the Work, whether it has been fabricated, installed, or fully completed. Any decision made by the Construction Manager, in good faith, shall not give rise to any duty or responsibility of the Construction Manager to the Contractor, any Subcontractor, their agents, employees, or other persons performing any of the Work. The Construction Manager shall have free access to any or all parts of Work at any time.

4.3. If the County does not use a Construction Manager on this Project, all references to Construction Manager or CM shall be read as County.

5. INSPECTOR, INSPECTIONS, AND TESTS

5.1. Project Inspector

5.1.1. One or more Project Inspector(s), including special Project Inspector(s), as required, by the local jurisdiction having authority, will inspect the Work as may be required by applicable regulations.

5.1.2. No Work shall be carried on except with the knowledge and under the inspection of the Project Inspector(s), if required. The Project Inspector(s) shall have free access to any or all parts of Work at any time. Contractor shall furnish Project Inspector(s) reasonable opportunities for obtaining such information as may be necessary to keep Project Inspector(s) fully informed respecting progress and manner of work and character of materials. Inspection of Work shall not relieve Contractor from the obligation to fulfill the Contract. Project Inspector(s) are authorized to stop work whenever the Contractor and/or its Subcontractor(s) are not complying with the applicable regulations and/or code requirements as dictated by the Contract Documents. Any work stoppage by the Project Inspector(s) shall be without liability to the County. Contractor shall instruct its Subcontractors and employees accordingly.

5.1.3. If Contractor and/or any Subcontractor requests that the Project Inspector(s) perform any inspection off-site, this shall only be done if it is allowable pursuant to applicable regulations. All off-site inspections, if required by the local regulations, are at the expense of the Contractor.

5.1.4. Limitations on Project Inspector Authority. The Project Inspector does not have authority to interpret the Contract Documents or to modify the Work depicted in the Contract Documents. No Work inconsistent with the Contract Documents shall be performed solely on the basis of the direction of the Project Inspector, and the Contractor shall be liable to the County for the consequences of all Work performed on such basis.

5.2. Tests and Inspections

5.2.1. Tests and Inspections shall comply with the Specifications.

5.2.2. If the Contract Documents, laws, ordinances or any public authority with jurisdiction over the Work requires the Work, or any portion thereof, to be specially tested, inspected or approved, the Contractor shall give the Architect, the Construction Manager and the Project Inspector written notice of the readiness of such Work for observation, testing or inspection at least seventy-two (72) hours prior to the time for the conducting of such test, inspection or observation. If inspection, testing or observation is by authority other than the County, the Contractor shall inform the Project Inspector and the Construction Manager not less than seventy-two (72) hours prior to the date fixed for such inspection, test or observation. The Contractor shall not cover up any portion of the Work subject to tests, inspections or observations prior to the completion and satisfaction of the requirements of such test, inspection or observation. In the event that any portion of the Work subject to tests, inspection or approval shall be covered up by Contractor prior to completion and satisfaction of the requirements of such tests, inspection or approval, Contractor shall be responsible for the uncovering of such portion of the Work as is necessary for performing such tests, inspection or approval without adjustment of the Contract Price or the Contract Time on account thereof.

5.2.3. The County will select an independent testing laboratory to conduct the tests. Selection of the materials required to be tested shall be by the laboratory or the County's representative and not by the Contractor. The Contractor shall notify the County's representative a sufficient time in advance of its readiness for required observation or inspection. The Contractor shall supply all materials that are required to be tested.

5.2.4. The Contractor shall notify the County's representative a sufficient time in advance of the manufacture of material to be supplied under the Contract Documents, that must by terms of the Contract Documents be tested, in order that the County may arrange for the testing of same at the source of supply. This notice shall be, at a minimum, seventy-two (72) hours prior to the manufacture of the material that needs to be tested. These notifications shall be submitted in all instances via hard copy and, if requested by the Construction Manager or the County's representative, also electronically via an internet-based notification/reporting system.

5.2.5. Any material shipped by the Contractor from the source of supply prior to having satisfactorily passed required testing and inspection or prior to the receipt of notice from the representative that testing and inspection will not be required, shall not be incorporated into and/or onto the Project.

5.2.6. The County will select and pay testing laboratory costs for all tests and inspections. Costs of tests of any materials found to be not in compliance with the Contract Documents shall be paid for by the County and reimbursed by the Contractor or deducted from the Contract Price.

5.3. Costs for After Hours and/or Off Site Inspections

All costs for after hours and/or off-site Inspections shall be borne by the Contractor.

6. CONTRACTOR

Contractor shall construct the Work for the Contract price including any adjustment(s) to the Contract Price pursuant to provisions herein regarding changes to the Contract Price. Except as otherwise indicated herein, Contractor shall provide and pay for all labor, materials, equipment, permits, fees, licenses, facilities, transportation, taxes, and services necessary for the proper execution and Project Completion.

6.1. Status and Obligations of Contractor

6.1.1. The Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. The Contractor shall be responsible to see that the finished Work complies accurately with the Contract Documents.

6.1.2. Contractor is and shall at all times be deemed to be an independent contractor and shall be wholly responsible for the manner in which it and its Subcontractors perform the services required of it by the Contract Documents. Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between the County, or any of the County's employees or agents, and Contractor or any of Contractor's Subcontractors, agents or employees. Contractor assumes exclusively the responsibility for the acts of its employees as they relate to the services to be provided during the course and scope of their employment. Contractor, its Subcontractors, agents, and its employees shall not be entitled to any rights or privileges of County employees. County shall be permitted to monitor the Contractor's activities to determine compliance with the terms of the Contract.

6.1.3. As required by law, Contractor and all Subcontractors shall be properly licensed and regulated by the Contractors State License Board, located at 9821 Business Park Drive, Sacramento, California 95827, with a mailing address of Post Office Box 26000, Sacramento, CA 95826, and with a website at <http://www.cslb.ca.gov>.

6.1.4. The Contractor shall verify all indicated dimensions before ordering materials or equipment, or before performing Work. The Contractor shall take field measurements, verify field conditions, and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Project Documents before commencing work. Contractor shall carefully study and compare all Contract Documents, Drawings, Specifications, and other instructions and shall at once report to County, Construction Manager, and Architect any error, inconsistency, or omission that Contractor or its employees and Subcontractors may discover, in writing. Upon commencement of any item of Work, the Contractor shall be responsible for dimensions related to the Work and shall make any corrections necessary to make Work properly fit at no additional cost to County. While the Contractor may hire or delegate a subconsultant or subcontractor to perform this work, the Contractor shall remain responsible for verification of dimensions is a non-delegable duty and may not be delegated to subcontractors or agents.

6.1.5. Contractor shall not be relieved from performing work related to omissions from the plans, drawings or specifications, or mis-descriptions of details of work that are manifestly necessary to carry out the intent of the plans, drawings and specifications, or that are customarily performed. Contractor shall perform this work as if fully and correctly set forth and described in the plans, drawings and specifications.

6.1.6. If Contractor intends to make any change in the name or legal nature of the Contractor's entity, Contractor must first notify the County. The County shall determine if Contractor's intended change is permissible while performing the Contract.

6.2. Contractor's Supervision, Personnel and Discipline

6.2.1. During progress of the Work, Contractor shall keep on the Premises, and at all other appropriate locations where any Work related to the Contract is being performed, minimum staffing as indicated in

the Contract Documents.

6.2.2. Project Manager and Full-Time Construction Superintendent. Before commencing the Work, Contractor shall give written notice to County of the name of its project manager and full-time construction superintendent.

6.2.2.1. Each shall be an employee of the Contractor, to whom the County does not object.

6.2.2.2. Each shall speak fluently English, written and verbal, and the predominant language of the Contractor's employees.

6.2.2.3. Each shall be competent and have a minimum of five (5) years' experience in construction supervision on projects of similar scale and complexity.

6.2.2.4. Neither shall be changed except with prior written notice to County, unless either (1) is no longer employed by Contractor or (2) proves to be unsatisfactory to Contractor, County, any of the County's employees, agents, the Construction Manager, or the Architect. County retains the right to reasonably refuse Contractor's replacement personnel.

6.2.2.5. Each shall represent Contractor, and all directions given to either shall be binding on Contractor.

6.2.2.6. The Contractor's project manager shall devote sufficient time both at the Project Site and at the Contractor's home office to pre-plan activities to meet the Project schedule and fulfill all Contract obligations. This includes making timely submittals, issuing and disseminating necessary RFI's, promptly processing and distributing bulletins, change orders and payments, keeping required logs current, etc.

6.2.3. Contractor and Subcontractor(s) shall at all times enforce strict discipline and good order among their employees and shall not employ or work any unfit person or anyone not skilled in work assigned to that person. It shall be the responsibility of Contractor to ensure compliance with this requirement. County may require Contractor to permanently remove unfit persons from Project Site(s).

6.2.4. Any person in the employ of Contractor or Subcontractor(s) whom County may deem incompetent or unfit shall be excluded from working on the Project and shall not again be employed on the Project except with the prior written consent of County.

6.2.5. The Contractor shall furnish labor that can work in harmony with all other elements of labor employed or to be employed in the Work.

6.2.6. All persons working for Contractor and Subcontractor(s) shall refrain from using profane or vulgar language, or any other language that is inappropriate on the job site.

6.2.7. The Contractor shall employ a competent scheduler and necessary assistants, or contract for sufficient services of a scheduling consultant. The scheduler shall have a minimum of five (5) years' experience in scheduling. The scheduler shall be satisfactory to the County and, if not satisfactory, shall be replaced by the Contractor with one that is acceptable. The scheduler shall not be changed without the written consent of the County unless the scheduler ceases to be employed by the Contractor.

6.2.8. If Contractor or any Subcontractor on the Project Site fails to comply with any provision herein, the County may have the offending person(s) immediately removed from the Site, and the person(s) shall be replaced within three (3) days, at no additional expense to the County. Contractor, on behalf of it and its Subcontractors, hereby waives any claim that the provisions of this paragraph or the enforcement thereof interferes, or has the potential to interfere, with its right to control the means and methods of its performance and duties under this Contract.

6.2.9. Compliance with Immigration Reform and Control Act of 1986. As required by law, Contractor and all Subcontractors shall employ individuals for the Work in conformity with the Immigration Reform and Control Act of 1986, 8 USC §§1101 et seq.

6.3. Prohibition on Harassment

6.3.1. In addition to the non-discrimination requirements in the Contract Documents, the Contractor and all Subcontractors must comply with these provisions prohibiting harassment at the Site.

6.3.2. The County is committed to providing a campus and workplace free of sexual harassment and harassment based on factors such as race, color religion, national origin, ancestry, age, medical condition, marital status, disability or veteran status. Harassment includes without limitation, verbal, physical or visual conduct which creates an intimidating, offensive or hostile environment such as racial slurs; ethnic jokes; posting of offensive statements, posters or cartoons or similar conduct. Sexual harassment includes without limitation the solicitation of sexual favors, unwelcome sexual advances, or other verbal, visual or physical conduct of a sexual nature.

6.3.3. Contractor shall take all reasonable steps to prevent harassment from occurring, including without limitation affirmatively raising the subject of harassment among its employees, expressing strong disapproval of any form of harassment, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment and informing complainants of the outcome of an investigation into a harassment claim.

6.3.4. Contractor shall not permit any person, whether employed by Contractor or a Subcontractor or any other person or entity, performing any Work at or about the Site to engage in any prohibited form of harassment. Any person performing or providing Work on or about the Site engaging in a prohibited form of harassment directed to any staff of the County or directed to any other person on or about the Site shall be subject to immediate removal and shall be prohibited thereafter from providing or performing any portion of the Work. Upon the County 's receipt of any notice or complaint that any person employed directly or indirectly by Contractor on any Subcontractor in performing or providing the Work has engaged in a prohibited form of harassment, the County will promptly undertake an investigation of such notice or complaint. In the event that the County, after such investigation, reasonably determines that a prohibited form of harassment has occurred, the County shall promptly notify the Contractor of the same and direct that the person engaging in such conduct be immediately removed from the Site. Unless the County 's determination that a prohibited form of harassment has occurred is grossly negligent or without reasonable cause, County shall have no liability for directing the removal of any person determined to have engaged in a prohibited form of harassment nor shall the Contract Price or the Contract Time be adjusted on account thereof. The indemnity provisions of the Contract Documents apply to any assertion by any person dismissed from performing or providing work at the direction of the County pursuant to this provision; or (ii) the assertion by any person that any person directly or indirectly under the employment or direction of the Contractor has engaged in a prohibited form of harassment directed to or affecting such person. The obligations of the Contractor and the Surety under the preceding sentence are in addition to, and not in lieu of, any other obligation of defense, indemnity and hold harmless whether arising under the Contract Documents, at law or otherwise; these obligations survive completion of the Work or the termination of the Contract.

6.4. Conferences and Meetings.

6.4.1. In addition to the conference and meeting requirements in the Specifications, Contractor's supervisory personnel for the Work and the Contractor's management personnel shall attend all required meetings as required by the Contract Documents or as requested by the County. The Contractor's personnel participating in conferences and meetings relating to the Work shall be authorized to act on behalf of the Contractor and to bind the Contractor. The Contractor is solely responsible for arranging for the attendance by Subcontractors and Material Suppliers at meetings and conferences relating to the

Work as necessary, appropriate or as requested by the County.

6.4.2. Preconstruction Conference. The Contractor's representatives (and representatives of Subcontractors as requested by the County) shall attend a preconstruction conference at such time and place as designated by the County. The preconstruction conference will generally address the requirements of the Work and Contract Documents, and to establish construction procedures. Subject matters of the preconstruction conference will include as appropriate: (a) administrative matters, including an overview of the respective responsibilities of the County, Architect, Construction Manager, Contractor, Subcontractors, and others performing any part of the Work or services relating to the Work; (b) Submittals; (c) Changes; (d) employment practices, including Certified Payroll preparation and submission and prevailing wage rate responsibilities of the Contractor and Subcontractors; (e) Progress Schedule development and maintenance; (f) development of Schedule of Values and payment procedures; (g) implementation of BIM, if applicable; (h) communication procedures, including the handling of Requests for Information; (i) emergency and safety procedures; (j) Site visitor policies; (k) conduct of Contractor/Subcontractor personnel at the Site; and (l) Completion, Punchlist and closeout procedures.

6.4.3. Progress Meetings. Progress meetings will be conducted on regular intervals (weekly unless otherwise expressly indicated elsewhere in the Contract Documents). The Contractor's representatives and representatives of Subcontractors (as requested by the County) shall attend progress meetings. Progress Meetings will be chaired by the County or the Construction Manager and will generally include as agenda items: Site safety, field issues, coordination of Work, construction progress and impacts to timely Completion, if any. The purposes of the progress meetings include: a formal and regular forum for discussion of the status and progress of the Work by all Project participants, a review of progress or resolution of previously raised issues and action items assigned to the Project participants, and reviews of the Progress schedule and submittals.

6.4.4. Special Meetings. As deemed necessary or appropriate by the County, special meetings will be conducted with the participation of the Contractor, Subcontractors and other Project participants as requested by the County.

6.4.5. Minutes of Meetings. following conclusion of the preconstruction conference, progress meetings and special meetings, the Architect or the Construction Manager will prepare and distribute minutes reflecting the items addressed and actions taken at a meeting or conference. Unless the Contractor notifies the Architect and the Construction Manager in writing of objections or corrections to minutes prepared hereunder within five (5) days of the date of distribution of the minutes, the minutes as distributed shall constitute the official record of the meeting or conference. No objections or corrections of any Subcontractor or Material Supplier shall be submitted directly to the Architect or the Construction Manager; such objections or corrections shall be submitted to the Architect and the Construction Manager through the Contractor. If the Contractor timely interposes objections or notes corrections, the resolution of such matters shall be addressed at the next scheduled progress meeting.

6.5. Purchase of Materials and Equipment

6.5.1. The Contractor is required to order and obtain materials and equipment sufficiently in advance of its Work at no additional cost or advance payment from County to assure that there will be no delays.

6.5.2. Off-Site Storage of Materials and Equipment Only Upon County's Written Consent. Contractor shall not store materials and/or equipment off site without first obtaining the County's express, written consent. If Contractor receives County's consent to store materials and/or equipment off site ("Stored Materials"), Contractor shall comply with all of the following:

6.5.2.1. **Property of Others Insurance.** Contractor shall procure and maintain, during the entire time Stored Materials are in off-site storage, insurance coverage acceptable to the County that shall protect Contractor and County from all claims for Stored Materials that are lost, stolen, or damaged.

The County shall be named as a loss payee for this insurance coverage. The insurance coverage shall include a "loss payable endorsement" stating that all amounts payable will be paid as a joint-check to the Contractor and County. If approved in advance by County, this required insurance may be obtained by an "Employee Theft Protection Insurance Policy" or an "Employee Theft Protection Bond."

6.5.2.2. Payment for Stored Materials. County shall only make payment to Contractor for Stored Materials if agreed upon in advance, in writing, by the County and provided that Contractor submits an itemized list of all Stored Materials with Contractor's Application for Payment. Contractor's itemized list of all Stored Materials shall be supported by all of the following:

6.5.2.2.1. Itemized breakdown of the Stored Materials for the purpose of requesting partial payment, identifying the serial numbers and exact storage location of each piece of equipment and material; and

6.5.2.2.2. Verified invoices for the Stored Materials; and

6.5.2.2.3. Original copy of Property of Others Insurance, Employee Theft Protection Insurance Policy, or an Employee Theft Protection Bond based on the type of insurance required by the County. These documents shall include certificates and endorsements stating the coverage and that the County is a loss payee or obligee, as appropriate.

6.6. Documents on Work

6.6.1. Contractor shall at all times keep on the Work Site, or at another location as the County may authorize in writing, one legible copy of all Contract Documents, including Addenda, Change Orders, Unilateral Change Orders, Construction Change Documents, and the specified edition(s) of the Uniform Building Code (electronic versions are acceptable), all approved Drawings, Plans, Schedules, and Specifications, and all codes and documents referred to in the Specifications, and made part thereof. These documents shall be kept in good order and available to County, Construction Manager, Architect, Architect's representatives, the Project Inspector(s), and all authorities having jurisdiction. Contractor shall be acquainted with and comply with the provisions of these titles as they relate to this Project.

6.6.2. Daily Job Reports.

6.6.2.1. Contractor shall maintain, at a minimum, at least one (1) set of Daily Job Reports on the Project. These must be prepared by the Contractor's employee(s) who are present on Site, and must include, at a minimum, the following information:

6.6.2.1.1. A detailed description of all Work performed by the Contractor and Subcontractor(s) on that day.

6.6.2.1.2. A summary of all other pertinent events and/or occurrences on that day.

6.6.2.1.3. The weather conditions on that day.

6.6.2.1.4. A list of all Subcontractor(s) working on that day,

6.6.2.1.5. A list of each Contractor employee working on that day and the total hours worked for each employee.

6.6.2.1.6. A complete list of all major equipment on Site that day, whether in use or not.

6.6.2.1.7. All complete list of all materials, supplies, and equipment delivered on that day.

6.6.2.1.8. A complete list of all inspections and tests performed on that day.

6.6.2.2. On or before 8:00 A.M. each day, Contractor shall provide a copy of the previous day's Daily Job Report to the County or the County's Construction Manager.

6.7. Preservation of Records

The County shall have the right to examine and audit all Daily Job Reports or other Project records of Contractor's project manager(s), project superintendent(s), and/or project foreperson(s), all certified payroll records and/or related documents including, without limitation, payroll, payment, timekeeping and tracking documents; all books, estimates, records, contracts, documents, proposal documents, proposal cost data, subcontract job cost reports, and other data of the Contractor, any Subcontractor, and/or supplier, including computations and projections related to proposing, estimating, negotiating, pricing, or performing the Work or Contract modification, in order to evaluate the accuracy, completeness, and currency of the cost, manpower, coordination, supervision, or pricing data at no additional cost to the County. These documents may be duplicative and/or be in addition to any documents held in escrow by the County. The Contractor shall make available at all reasonable times the materials described in this paragraph for the examination, audit, or reproduction until three (3) years after final payment under this Contract. Notwithstanding the provisions above, Contractor shall provide any records requested by any governmental agency, if available, after the time set forth above.

6.8. Integration of Work

6.8.1. Contractor shall do all cutting, fitting, patching, and preparation of Work as required to make its several parts come together properly, to fit it to receive or be received by work of other contractors, and to coordinate tolerances to various pieces of work, showing upon, or reasonably implied by, the Drawings and Specifications for the completed structure, and shall conform them as County and/or Architect may direct.

6.8.2. All cost caused by defective or ill-timed Work shall be borne by Contractor, inclusive of repair work.

6.8.3. Contractor shall not endanger any work performed by it or anyone else by cutting, excavating, or otherwise altering work and shall not cut or alter work of any other contractor except with written consent of County.

6.9. Obtaining Licenses

Contractor shall secure and pay for all of its required licenses, and certificates necessary for prosecution of Work before the date of the commencement of the Work or before the licenses, and certificates are legally required to continue the Work without interruption. The Contractor shall obtain and pay, only when legally required, for all licenses and certificates required to be obtained from or issued by any authority having jurisdiction over any part of the Work included in the Contract. All final permits and certificates shall be delivered to County before demand is made for final payment.

6.10. Work to Comply with Applicable Laws and Regulations

6.10.1. Contractor shall give all notices and comply with all applicable laws, ordinances, rules, and regulations relating to the Work, including the specific laws, ordinances, rules, and regulations as indicated and specified in the Contract Documents and identified below, including but not limited to the appropriate statutes and administrative code sections. If Contractor observes that Drawings and Specifications are at variance therewith, or should Contractor become aware of the development of conditions not covered by Contract Documents that will result in finished Work being at variance therewith, Contractor shall promptly notify County in writing and any changes deemed necessary by County shall be made as provided in Contract for changes in Work.

- 6.10.1.1. National Electrical Safety Code, U. S. Department of Commerce
- 6.10.1.2. National Board of Fire Underwriters' Regulations
- 6.10.1.3. Uniform Building Code, latest addition, and the California Code of Regulations
- 6.10.1.4. Manual of Accident Prevention in Construction, latest edition, published by A.G.C. of America
- 6.10.1.5. Industrial Accident Commission's Safety Orders, State of California

- 6.10.1.6. Regulations of the State Fire Marshall (title 19, California Code of Regulations) and Pertinent Local Fire Safety Codes
- 6.10.1.7. Americans with Disabilities Act
- 6.10.1.8. Government Code of the State of California
- 6.10.1.9. Labor Code of the State of California, division 2, part 7, Public Works and Public Agencies
- 6.10.1.10. Public Contract Code of the State of California
- 6.10.1.11. California Art Preservation Act
- 6.10.1.12. U. S. Copyright Act
- 6.10.1.13. U. S. Visual Artists Rights Act

6.10.2. Contractor shall comply with all applicable mitigation measures, if any, adopted by any public agency with respect to this Project pursuant to the California Environmental Quality Act (Public Resources Code section 21000 et seq.)

6.10.3. If Contractor performs any Work that it knew, or through exercise of reasonable care should have known, to be contrary to any applicable laws, ordinance, rules, or regulations, Contractor shall bear all costs arising therefrom.

6.10.4. Where Specifications or Drawings state that materials, processes, or procedures must be approved by the local and/or State Fire Marshall or other body or agency, Contractor shall be responsible for satisfying requirements of such bodies or agencies.

6.10.5. Airport. If the Project is located at an Airport, the Contractor acknowledges that the Airport is subject to the National Pollutant Discharge Elimination System program and its regulations relating to stormwater discharges (40 CFR Part 122) for operations that occur at the Facility. The Contractor further acknowledges that it is familiar with these NPDES stormwater regulations and shall conduct operations at the Project in compliance with 40 CFR Part 122 or any applicable NPDES permit, as either may be amended from time to time.

6.11. Safety/Protection of Persons and Property

6.11.1.1. The Contractor is solely responsible for conditions of the Work Site, including safety of all persons and property during performance of the Work. This requirement will apply continuously and not be limited to normal working hours.

6.11.2. Airport. If the Project is located at an Airport, the Contractor acknowledges that construction activities under this Contract shall be conducted at an operational Airport under secure conditions.

6.11.2.1. The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to:

6.11.2.1.1. Employees on the Project, employees of the Facility, airline employees, the traveling public, and other persons who may be affected by the Work;

6.11.2.1.2. The Work and the materials and equipment to be incorporated therein, whether in storage on- or off-site, or under the care, custody, or control of the Contractor or its Subcontractors; and

6.11.2.1.3. Other property at the Site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, runways, structures, and utilities not designated for removal, relocation, or replacement in the course of the Work.

6.11.2.2. At all times, the Contractor shall comply with all applicable Law concerning safety and security of the Airport, Airport facilities, and all persons accessing said facilities, all as more particularly described in the Contract Documents. The Contractor shall specifically cooperate with the

Airport, airlines, FAA, TSA, and other applicable Governmental Authorities in arranging for security and sterility within areas under construction, and comply with the security rules of such entities.

6.11.3. The use of personal protective equipment (e.g., hard hat, eye-protection, steel-toed boots, etc.) shall be mandatory at all times for all personnel on Site. Contractor shall supply sufficient hard hats to properly equip all employees and visitors.

6.11.4. Any construction review of the Contractor's performance is not intended to include review of the adequacy of the Contractor's safety measures in, on, or near the Work Site.

6.11.5. Implementation and maintenance of safety programs shall be the sole responsibility of the Contractor.

6.11.6. The Contractor shall furnish to the County a copy of the Contractor's safety plan within the time frame indicated in the Contract Documents and specifically adapted for the Project.

6.11.7. Contractor shall be responsible for all damages to persons or property that occur as a result of its fault or negligence in connection with the performance of the Contract and shall take all necessary measures and be responsible for the proper care, Project Completion and final acceptance by County. All Work shall be solely at Contractor's risk with the exception of damage to the Work caused by "acts of God" as defined in Public Contract Code section 7105.

6.11.8. Contractor shall take, and require Subcontractors to take, all necessary precautions for safety of workers on the Project and shall comply with all applicable federal, state, local, and other safety laws, standards, orders, rules, regulations, and building codes to prevent accidents or injury to persons on, about, or adjacent to premises where Work is being performed and to provide a safe and healthful place of employment. Contractor shall furnish, erect, and properly maintain at all times, all necessary safety devices, safeguards, construction canopies, signs, nets, barriers, lights, and watchmen for protection of workers and the public and shall post danger signs warning against hazards created by such features in the course of construction.

6.11.9. Hazards Control – Contractor shall store volatile wastes in covered metal containers and remove them from the Site regularly, which shall be daily when appropriate for the type of hazardous wastes to be removed. Contractor shall prevent accumulation of wastes that create hazardous conditions. Contractor shall provide adequate ventilation during use of volatile or noxious substances.

6.11.10. Contractor shall designate a responsible member of its organization on the Project, whose duty shall be to post information regarding protection and obligations of workers and other notices required under occupational safety and health laws, to comply with reporting and other occupational safety requirements, and to protect the life, safety, and health of workers. Name and position of person so designated shall be reported to County by Contractor.

6.11.11. Contractor shall correct any violations of safety laws, rules, orders, standards, or regulations. Upon the issuance of a citation or notice of violation by the Division of Occupational Safety and Health, Contractor shall correct such violation promptly.

6.11.12. Storm Water Permits. Contractor shall comply with any County storm water requirements that are approved by the County and applicable to the Project, at no additional cost to the County.

6.11.12.1. Contractor shall perform the Work of the Project related to being the County's Qualified SWPPP (Storm Water Pollution Prevention Plan) Practitioner ("QSP").

6.11.12.2. As the County's QSP, Contractor shall be responsible for storm water and non-storm water visual observations, sampling, and analysis per the County's SWPPP.

6.11.12.3. Contractor shall strictly follow the requirements to implement all the provisions of the SWPPP including, without limitation, preparation of monitoring and recording reports and providing those to the County.

6.11.12.4. Contractor's indemnity obligations as indicated in the Contract Documents are applicable to any damages, penalties, fees, charges, or related expenses assessed or charged to the County by any water boards or agencies with jurisdiction related to compliance with the Storm Water Permits.

6.11.13. In an emergency affecting safety of life or of work or of adjoining property, or Airport operations Contractor, without special instruction or authorization, shall act, at its discretion, to prevent such threatened loss or injury. Any compensation claimed by Contractor on account of emergency work shall be determined by agreement.

6.11.14. All salvage materials will become the property of the Contractor and shall be removed from the Site unless otherwise called for in the Contract Documents. However, the County reserves the right to designate certain items of value that shall be turned over to the County unless otherwise directed by County.

6.11.15. All connections to public utilities and/or existing on-site services shall be made and maintained in such a manner as to not interfere with the continuing use of same by the County during the entire progress of the Work.

6.11.16. Contractor shall provide such heat, covering, and enclosures as are necessary to protect all Work, materials, equipment, appliances, and tools against damage by weather conditions, such as extreme heat, cold, rain, snow, dry winds, flooding, or dampness.

6.11.17. The Contractor shall protect and preserve the Work from all damage or accident, providing any temporary roofs, window and door coverings, boxing, or other construction as required by the County. The Contractor shall be responsible for existing structures, walks, roads, trees, landscaping, and/or improvements in working areas; and shall provide adequate protection therefore. If temporary removal is necessary of any of the above items, or damage occurs due to the Work, the Contractor shall replace same at its expense with same kind, quality, and size of Work or item damaged. This shall include any adjoining property of the County and others.

6.11.18. Contractor shall take adequate precautions to protect existing roads, sidewalks, curbs, pavements, utilities, adjoining property, and structures (including, without limitation, protection from settlement or loss of lateral support), and to avoid damage thereto, and repair any damage thereto caused by construction operations of the Contractor.

6.11.19. Contractor shall confine apparatus, the storage of materials, and the operations of workers to limits indicated by law, ordinances, permits, or directions of County, Construction Manager or Architect, and shall not interfere with the Work or unreasonably encumber Premises or overload any structure with materials. Contractor shall enforce all instructions of County and Architect regarding signs, advertising, fires, and smoking, and require that all workers comply with all regulations while on Project Site(s).

6.11.20. Contractor, Contractor's employees, Subcontractors, Subcontractors' employees, or any person associated with the Work shall conduct themselves in a manner appropriate for a public site. No verbal or physical contact with the public or County staff or inappropriate attire or behavior will be permitted. County may require Contractor to permanently remove non-complying persons from Project Site(s).

6.11.21. Contractor shall take care to prevent disturbing or covering any survey markers, monuments, or other devices marking property boundaries or corners. If such markers are disturbed, Contractor shall have a civil engineer, registered as a professional engineer in California, replace them at no cost to County.

6.11.22. In the event that the Contractor enters into any agreement with owners of any adjacent property to enter upon the adjacent property for the purpose of performing the Work, Contractor shall fully indemnify, defend, and hold harmless each person, entity, firm, or agency that owns or has any interest in adjacent property. The form and content of the agreement of indemnification shall be approved by the County prior to the commencement of any Work on or about the adjacent property. The Contractor shall also indemnify the County as provided in the indemnification provision herein. These provisions shall be in addition to any other requirements of the owners of the adjacent property.

6.11.23. Airport. In addition to the requirements set forth herein, the Contractor shall initiate and maintain all safety programs as required in the Contract Documents and, if applicable, shall specifically comply with all Airport safety and security requirements required by applicable Law, including those promulgated by the FAA, the TSA and other applicable Governmental Authorities. All safety programs are subject to approval by Owner.

6.12. Working Evenings and Weekends

6.12.1. Contractor agrees that the nature of the Project, and operations and operational hours of the Airport, may require Contractor to work evenings and/or weekends **at no additional cost** to the County. Contractor shall give the County seventy-two (72) hours' notice prior to performing any evening and/or weekend work.

6.12.2. Contractor shall perform all evening and/or weekend work only upon County's written approval, the local jurisdiction's approval (if required), and in compliance with all applicable rules, regulations, laws, and local ordinances including, without limitation, all noise and light limitations.

6.13. Noise and Dust Control

6.13.1. In addition to the noise control, dust control and related requirements in the Specifications, Contractor shall control the noise and dust at the Site as indicated here.

6.13.2. Noise Control. The Contractor shall install noise reducing devices on construction equipment. Contractor shall comply with the requirements of the city and county having jurisdiction with regard to noise ordinances governing construction sites and activities. Construction equipment noise at the Site shall be limited as required by applicable law, rule or regulation. In no event shall those arrangements result in adjustment of the Contract Price or the Contract Time.

6.13.3. Dust Control. The Contractor shall be fully and solely responsible for maintaining and upkeeping all areas of the Site and adjoining areas, outdoors and indoors, free from flying debris, grinding powder, sawdust, dirt and dust as well as any other product, product waste or work waste, that by becoming airborne may cause respiratory inconveniences to persons, particularly County personnel. Additionally, the Contractor shall take specific care to avoid deposits of airborne dust or airborne elements. Those protection devices, systems or methods shall be in accordance with the regulations set forth by the EPA and OSHA, and other applicable law, rule or regulation. Additionally, the Contractor shall be responsible to regularly and routinely clean up and remove any and all deposits of dust and other elements. Damage and/or any liability derived from the Contractor's failure to comply with these requirements shall be exclusively at the cost of the Contractor, including, without limitation, any and all penalties that may be incurred for violations of applicable law, rule or regulation, and any amounts expended by the County to pay such damages shall be due and payable to the County on demand. Contractor shall replace any damages property or part thereof and professionally clean any and all items that become covered or partially covered to any degree by dust or other airborne elements.

6.13.4. Contractor Failure to Comply. If the Contractor fails to comply with the requirements for dust control, noise control, or any other maintenance or clean up requirement of the Contract Documents, the County, Architect, or Construction Manager shall notify the Contractor in writing and the Contractor shall

take immediate action. Should the Contractor fail to respond with immediate and responsive action and not later than twenty-four (24) hours from that notification, the County shall have the absolute right to proceed as it may deem necessary to remedy such matter. Any and all costs incurred by the County in connection with those actions shall be the sole responsibility of, and be borne by, the Contractor; the County may deduct those amounts from the Contract Price then or thereafter due the Contractor.

6.14. Cleaning Up

6.14.1. The Contractor shall provide all services, labor, materials, and equipment necessary for protecting the Work, all Site occupants, furnishings, equipment, and building structure from damage until Project Completion and final acceptance by County. Dust barriers shall be provided to isolate dust and dirt from construction operations. Upon Project Completion, Contractor shall clean to the original state any areas beyond the Work area that become dust laden as a result of the Work. The Contractor must erect the necessary warning signs and barricades to ensure the safety of all Site occupants. The Contractor at all times must maintain good housekeeping practices to reduce the risk of fire damage and must make a fire extinguisher, fire blanket, and/or fire watch, as applicable, available at each location where cutting, braising, soldering, and/or welding is being performed or where there is an increased risk of fire.

6.14.2. Contractor at all times shall keep Premises free from debris such as waste, rubbish, and excess materials and equipment caused by the Work. Contractor shall not leave debris under, in, or about the Premises, but shall promptly remove same from the Premises on a daily basis. If Contractor fails to clean up, County may do so and the cost thereof shall be charged to Contractor. If Contract is for work on an existing facility, Contractor shall also perform specific clean-up on or about the Premises upon request by the County as it deems necessary for the continuing education process. Contractor shall comply with all related provisions of the Specifications.

6.14.3. If the Construction Manager, Architect, or County observes the accumulation of trash and debris, the County will give the Contractor a 24-hour written notice to mitigate the condition.

6.14.4. Should the Contractor fail to perform the required clean-up, or should the clean-up be deemed unsatisfactory by the County, the County will then perform the clean-up. All cost associated with the clean-up work (including all travel, payroll burden, and costs for supervision) will be deducted from the Contract Price, or County may withhold those amounts from payment(s) to Contractor.

7. SUBCONTRACTORS

7.1. Contractor shall comply with the Subcontractor procurement procedures of Public Contract Code section 20146(d) and the Subcontractor procurement requirements provided by the County.

7.2. No contractual relationship exists between the County and any Subcontractor, supplier, or sub-subcontractor by reason of the Contract.

7.3. Contractor agrees to bind every Subcontractor by terms of the Contract as far as those terms are applicable to Subcontractor's work. If Contractor shall subcontract any part of the Contract, Contractor shall be as fully responsible to County for acts and omissions of any Subcontractor and of persons either directly or indirectly employed by any Subcontractor, as it is for acts and omissions of persons directly employed by Contractor. The divisions or sections of the Specifications are not intended to control the Contractor in dividing the Work among Subcontractors or limit the work performed by any trade.

7.4. County's consent to, or approval of, or failure to object to, any Subcontractor under the Contract shall not in any way relieve Contractor of any obligations under the Contract and no such consent shall be deemed to waive any provisions of the Contract.

7.5. Contractor acknowledges sections 4100 through 4114 of the Public Contract Code of the State of

California, as regards subletting and subcontracting, and shall comply with all applicable requirements therein. In addition, Contractor acknowledges sections 1720 through 1861 of the Labor Code of the State of California, as regards the payment of prevailing wages and related issues, and shall comply with all applicable requirements therein all including, without limitation, section 1775 and the Contractor's and Subcontractors' obligations and liability for violations of prevailing wage law and other applicable laws.

7.6. No Contractor whose Bid is accepted shall, without consent of the awarding authority and in full compliance with section 4100, et seq, of the Public Contract Code, including, without limitation, sections 4107, 4107.5, and 4109 of the Public Contract Code, either:

7.6.1. Substitute any person as a Subcontractor in place of the Subcontractor designated in the original Bid; or

7.6.2. Permit any Subcontract to be assigned or transferred, or allow any portion of the Work to be performed by anyone other than the original Subcontractor listed in the Bid; or

7.6.3. Sublet or subcontract any portion of the Work in excess of one-half of one percent (1/2 of 1%) of the Contractor's total bid as to which his original bid did not designate a Subcontractor.

7.7. The Contractor shall be responsible for the coordination of the trades, Subcontractors, sub-subcontractors, and material or equipment suppliers working on the Project.

7.8. Contractor is solely responsible for settling any differences between the Contractor and its Subcontractor(s) or between Subcontractors.

7.9. Contractor must include in all of its subcontracts the assignment provisions as indicated in the Termination provisions of the Contract Documents.

8. OTHER CONTRACTS/CONTRACTORS

8.1. County reserves the right to let other contracts, and/or to perform work with its own forces, in connection with other portions of the Project or other construction or operations at or about the Site. Contractor shall afford other contractors reasonable opportunity for introduction and storage of their materials and execution of their work and shall properly coordinate and connect Contractor's Work with the work of other contractors.

8.2. In addition to Contractor's obligation to protect its own Work, Contractor shall protect the work of any other contractor that Contractor encounters while working on the Site.

8.3. If any part of Contractor's Work depends for proper execution or results upon work of County or any other contractor, the Contractor shall inspect and promptly report to the County in writing before proceeding with its Work any defects in County's or any other contractor's work that render Contractor's Work unsuitable for proper execution and results. Contractor shall be held accountable for damages to County for County's or any other contractor's work that Contractor failed to inspect or should have inspected. Contractor's failure to inspect and report shall constitute Contractor's acceptance of all County's or any other contractor's work as fit and proper for reception of Contractor's Work, except as to defects that may develop in County's or any other contractor's work after execution of Contractor's Work.

8.4. To ensure proper execution of its subsequent work, Contractor shall measure and inspect work already in place and shall at once report to the County in writing any discrepancy between that executed work and the Contract Documents.

8.5. Contractor shall ascertain to its own satisfaction the scope of the Project and nature of County's or any other contracts that have been or may be awarded by County in prosecution of the Project to the end that Contractor may perform this Contract in light of the other contracts, if any.

8.6. Nothing herein contained shall be interpreted as granting to Contractor exclusive occupancy of the Site, the Premises, or of the Project. The County shall have complete access to the Project Site for any reasonable purpose at all times. Contractor shall not cause any unnecessary hindrance or delay to the use of the Premises and/or to County or any other contractor working on the Project. If simultaneous execution of any contract or Site operation is likely to cause interference with performance of Contractor's Contract, Contractor shall coordinate with those contractor(s), person(s), and/or entity(s) and shall notify the County of the resolution.

9. DRAWINGS AND SPECIFICATIONS

9.1. A complete list of all Drawings that form a part of the Contract is to be found as an index on the Drawings themselves, and/or may be provided to the Contractor and/or in the Table of Contents.

9.2. Materials or Work described in words that so applied have a well-known technical or trade meaning shall be deemed to refer to recognized standards, unless noted otherwise.

9.3. Trade Name or Trade Term. It is not the intention of the Contract to go into detailed descriptions of any materials and/or methods commonly known to the trade under "trade name" or "trade term." The mere mention or notation of "trade name" or "trade term" shall be considered a sufficient notice to Contractor that it will be required to complete the work so named, complete, finished, and operable, with all its appurtenances, according to the best practices of the trade.

9.4. The naming of any material and/or equipment shall mean furnishing and installing of same, including all incidental and accessory items thereto and/or labor therefor, as per best practices of the trade(s) involved, unless specifically noted otherwise.

9.5. Contract Documents are complementary, and what is called for by one shall be binding as if called for by all. As such, Drawings and Specifications are intended to be fully cooperative and to agree. However, if Contractor observes that Drawings and Specifications are in conflict, Contractor shall promptly notify County and Architect in writing, and any necessary changes shall be made as provided in the Contract Documents.

9.6. In the case of discrepancy or ambiguity in the Contract Documents, the order of precedence indicated in the "**Interpretation of Contract Documents**" section of the Agreement shall prevail. However, in the case of discrepancy or ambiguity solely between and among the Drawings and Specifications, the discrepancy or ambiguity shall be resolved in favor of the interpretation that will provide County with the functionally complete and operable Project described in the Drawings and Specifications. In case of ambiguity, conflict, or lack of information, County will furnish clarifications with reasonable promptness.

9.7. Drawings and Specifications are intended to comply with all laws, ordinances, rules, and regulations of constituted authorities having jurisdiction, and where referred to in the Contract Documents, the laws, ordinances, rules, and regulations shall be considered as a part of the Contract within the limits specified. Contractor shall bear all expense of correcting work done contrary to said laws, ordinances, rules, and regulations and for which the Contractor knew or reasonably should have known did not comply with those laws, ordinances, rules, and regulations.

9.8. Ownership of Drawings

All copies of Plans, Drawings, Designs, Specifications, and copies of other incidental architectural and engineering work, or copies of other Contract Documents furnished by County, are the property of County. They are not to be used by Contractor in other work and, with the exception of signed sets of Contract Documents, are to be returned to County on request at Completion of Work, or may be used by County as it may require without any additional costs to County. Neither the Contractor nor any Subcontractor, or material or equipment supplier shall own or claim a copyright in the Drawings, Specifications, and other documents prepared by the Architect. County hereby grants the Contractor, Subcontractors, sub-subcontractors, and material or equipment suppliers a limited license to use applicable portions of the

Drawings prepared for the Project in the execution of their Work under the Contract Documents.

10. CONTRACTOR'S SUBMITTALS AND SCHEDULES

10.1. Contractor's submittals shall comply with the provisions and requirements of the Contract Documents including, without limitation Submittals. No submittal, unless approved in writing by the County as acceptable and complete, shall be a Contract Document. All submittals shall be provided no later than the date indicated herein below

10.2. Schedule of Submittals. Unless the County has provided a schedule of submittals to which the Contractor shall comply, the Contractor shall provide a preliminary schedule of submittals, including Shop Drawings, Product Data, and Samples submittals, along with other items as indicated in the Contract Documents. Once approved by County or Construction Manager, if applicable, this shall become the Submittal Schedule. All submittals shall be forwarded to the County or Construction Manager, if applicable, by the date indicated on the approved Submittal Schedule, unless an earlier date is necessary to maintain the Construction Schedule, in which case those submittals shall be forwarded to the County or Construction Manager, if applicable, so as not to delay the Construction Schedule.

10.3. Contractor must provide all schedules both in hard copy and electronically, in original format and pdf format, or a format (e.g., Microsoft Project or Primavera) approved in advance by the County.

10.4. The County and/or its representative, will review the schedules submitted and the Contractor shall make changes and corrections in the schedules as requested by the County and resubmit the schedules until approved by the County.

10.5. Construction Schedule. The County shall issue a Notice to Proceed for Preconstruction Services at which time the Contractor shall begin to prepare a Construction Schedule as provided herein. The County reserves the right to issue multiple Notices to Proceed in connection with different phases of the construction of the Project. For each Notice to Proceed for construction of the Project, the Contractor shall prepare a Construction Schedule that complies with each Notice to Proceed, if any, or the Contract Documents, and in compliance with and as required in the Contract Documents.

10.5.1. All items on the Schedule of Values, all milestone dates provided by the County, and all other County provided dates for completion, must be in the Contractor's proposed Construction Schedule.

10.5.2. Proposed Advanced Schedule. The County is not required to accept an early completion ("advanced") schedule; i.e., one that shows early completion dates for the Contract completion or milestones. Contractor shall not be entitled to extra compensation if the County allows the Contractor to proceed performing the Contract on an earlier ("advanced") schedule and Contractor completes the Project, for whatever reason, beyond the date shown in that earlier ("advanced") schedule, but within the Time for Completion indicated in the Contract. A schedule showing the work completed in less than the Time for Completion indicated in the Contract, shall be considered to have Project Float.

10.5.3. Float or Slack in the Schedule. Float or slack is the amount of time between the early start date and the late start date, or the early finish date and the late finish date, of any of the activities in the schedule. Float or slack is not for the exclusive use of or benefit of either the County or the Contractor, but its use shall be determined solely by the County.

10.6. Schedule of Values

10.6.1. The Contractor shall provide a preliminary schedule of values for all of the Work, which is comprised of quantities and prices of items aggregating the Contract Price and must subdivide the Work into component parts in sufficient detail to serve as the basis for payments during construction. The preliminary schedule of values should follow the breakdown of scope and categories found in the most recent Construction Specifications Institute ("CSI") MasterFormat documentation. The County may

require that Contractor include the following information and the following structure but the Contractor and the County will agree on the content and structure of the schedule of values:

- 10.6.1.1. Overhead and profit;
- 10.6.1.2. Supervision;
- 10.6.1.3. General conditions;
- 10.6.1.4. Layout;
- 10.6.1.5. Mobilization;
- 10.6.1.6. Submittals;
- 10.6.1.7. Bonds and insurance;
- 10.6.1.8. Closeout documentation;
- 10.6.1.9. Demolition;
- 10.6.1.10. Installation;
- 10.6.1.11. Rough-in;
- 10.6.1.12. Finishes;
- 10.6.1.13. Testing;
- 10.6.1.14. Punch list and acceptance.

10.6.2. Divided by each of the following areas:

- 10.6.2.1. Site work;
- 10.6.2.2. By each building and phase;
- 10.6.2.3. By each floor.
- 10.6.2.4. By division of work.

10.6.3. The preliminary schedule of values shall not provide for values any greater than the following percentages of the Contract value:

- 10.6.3.1. Mobilization and layout combined to equal not more than 1%;
- 10.6.3.2. Submittals, samples and shop drawings combined to equal not more than 2%;
- 10.6.3.3. Bonds and insurance combined to equal not more than 3% (contractor shall provide evidence of the exact amount of the bond and insurance).
- 10.6.3.4. Punchlist and acceptance value combined to equal not less than 1%.
- 10.6.3.5. No item on the Schedule of Value (except noted above) to equal more than 3%.
- 10.6.3.6. Closeout Documentation to equal not less than 5%.

10.6.4. Contractor shall certify that the preliminary schedule of values as submitted to the County is accurate and reflects the costs within the Contract Price. The preliminary schedule of values shall be subject to the County 's review and approval of the form and content thereof. In the event that the County objects to any portion of the preliminary schedule of values, the County shall notify the Contractor, in writing, of the County 's objection(s) to the preliminary schedule of values. Within five (5) calendar days of the date of the County 's written objection(s), Contractor shall submit a revised preliminary schedule of values to the County for review and approval. The foregoing procedure for the preparation, review and approval of the preliminary schedule of values shall continue until the County has approved the entirety of the preliminary schedule of values.

10.6.5. Once the preliminary schedule of values is approved by the County, this shall become the Schedule of Values. The Schedule of Values shall not be thereafter modified or amended by the Contractor without the prior written consent and approval of the County, which may be granted or withheld in the sole discretion of the County.

10.6.6. The County shall have the right at any time to revise the Schedule of Values if, in the County 's sole opinion, the Schedule of Values does not accurately reflect the value of the Work performed.

10.6.7. Contractor shall not "front-load" the Schedule of Values with false dollar amounts for activities to

be performed in the early stages of the Project. The County may, in its sole discretion, utilize the costs listed in the Schedule of Values as the true cost of items to be deducted from the Contract Price through credit or deductive Change Order. The values for each line item shall include the amount of overhead and profit applicable to each item of work and shall include, at a minimum, a breakdown between rough and finish Work for the basic trades as well as individual dollar figures for large dollar equipment and materials to be installed or furnished for the Project. No individual line item or scope of work in the Schedule of Values shall exceed \$50,000, except with the express, written consent of the County. Exceptions will be given by the County for a single item of Equipment for which the true cost exceeds \$50,000. Upon request, Contractor shall provide County with data and documentation substantiating the accuracy of the proposed line items.

10.6.8. In the event that the County shall reasonably object to any portion of the Schedule of Values, within ten (10) days of the County's receipt of the Schedule of Values, the County shall notify the Contractor, in writing of the County's objection(s) to the Schedule of Values together with any request for substantiating data or documentation. Within five (5) days of the date of the County's written objection(s) and request for substantiating data and documentation, Contractor shall submit a revised Schedule of Values to the County for review and approval together with the requested data and documentation. The foregoing procedure for the preparation, review and approval of the Schedule of Values shall continue until the County has approved of the entirety of the Schedule of Values. Once the Schedule of Values is approved by the County, the Schedule of Values shall not be thereafter modified or amended by the Contractor without the prior consent and approval of the County, which may be granted or withheld in the sole reasonable discretion of the County. Notwithstanding any provision of the Contract Documents to the contrary, payment of the Contractor's overhead, supervision and general conditions costs and profit, as such items are reflected in the Schedule of Values, shall be made incrementally as included in the activities included in the Approved Construction Schedule.

10.7. Safety Plan. The Contractor shall provide a safety plan specifically adapted for the Project. Contractor's safety plan shall comply with the following requirements and shall be submitted to the County for information purposes only:

10.7.1. All applicable requirements of California Division of Industrial Safety ("CalOSHA") and/or of the United States Occupational Safety and Health Administration ("OSHA").

10.7.2. All provisions in the Contract Documents regarding Project safety.

10.7.3. Contractor's Safety Plan shall be in English and in the language(s) of the Contractor's and its Subcontractors' employees.

10.8. Complete Subcontractor List. The Contractor shall provide the name, address, telephone number, facsimile number, California State Contractors License number, classification, and monetary value of all Subcontracts for parties furnishing labor, material, or equipment for Project Completion, plus all information required in the Contract Documents. This includes each Subcontractors bid, proposal and fully executed Contract with the Contractor.

10.9. Monthly Progress Schedule(s)

10.9.1. Contractor shall provide Monthly Progress Schedule(s) to the County. A Monthly Progress Schedule shall update the approved Construction Schedule or the last Monthly Progress Schedule, showing all work completed and to be completed. The Monthly Progress Schedule shall be sent to the County and shall be in a format acceptable to the County and contain a written narrative of the progress of work that month and any changes, delays, or events that may affect the work. The process for County approval of the Monthly Progress Schedule shall be the same as the process for approval of the Construction Schedule.

10.9.2. Contractor shall also submit Monthly Progress Schedule(s) with all payment applications.

10.10. Safety Data Sheets (SDS) (formerly known as Material Safety Data Sheets, or MSDSs).

Contractor is required to ensure Safety Data Sheets are available in a readily accessible place at the Work Site for any material requiring a Safety Data Sheet per the Federal "Hazard Communication" standard, or employees right to know law. The Contractor is also required to ensure proper labeling on substance brought onto the job site and that any person working with the material or within the general area of the material is informed of the hazards of the substance and follows proper handling and protection procedures. Two additional copies of the Safety Data Sheets shall also be submitted directly to the County.

10.11. Logistics Plan. Contractor shall provide a staging and logistics plan identifying laydown areas, loading and unloading areas, including areas for concrete pours and washout of concrete trucks, crane locations, fence locations, temporary utility connections, trailer locations, and emergency evacuation meeting area. This Logistics Plan must be approved by the County prior to the Contractor mobilizing on the Site and shall be updated and revised upon the County's request.

11. SITE ACCESS, CONDITIONS, AND REQUIREMENTS

11.1. Site Investigation

Contractor has made a careful investigation of the Site and is familiar with the requirements of the Contract and has accepted the known existing conditions of the Site.

11.2. Soils Investigation Report & Site Due Diligence

11.2.1. When a soils investigation report obtained from test holes at the Site is available, that report shall be available to the Contractor but shall not be a part of this Contract. Any information obtained from that report or any information given on Drawings as to subsurface soil condition or to elevations of existing grades or elevations of underlying rock is approximate only, is not guaranteed, does not form a part of this Contract. Contractor may reasonably rely thereon, however the County makes no warranty regarding the completeness or accuracy of any such report or other information regarding subsurface conditions. Contractor acknowledges that it has made visual examination of Site and has made whatever tests Contractor deems appropriate to determine underground condition of soil.

11.2.2. If Contractor encounters subsurface or latent conditions at Site materially differing from those shown on Drawings or indicated in Specifications, or for unknown conditions of an unusual nature that differ materially from those ordinarily encountered in the Work of the character provided for in the Contract Documents, Contractor shall give notice to the County immediately before conditions are disturbed and in no event later than ten (10) days after first observance of the conditions.

11.2.2.1. The County will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in Contractor's cost of, or time required for, performance of any part of the Work, will equitably adjust the Contract Sum or Contract Time, or both.

11.2.2.2. If the County determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the County will notify Contractor in writing, stating the reasons.

11.2.2.3. If after receiving the response, Contractor still intends to pursue a Claim, it shall provide written notice within ten (10) days after it has received the decision.

11.2.2.4. Conditions will not be qualified as concealed or unknown if they were readily visible or reasonably observable.

11.2.3. Contractor's 's Diligence. Contractor's agreement to the Contract Price confirms that it has made a careful examination of the Contract Documents, that it has a complete understanding of the

nature, extent, and location of Work to be performed and that it expressly represents that it has fully completed the following:

11.2.3.1. Contractor has visited the Project Site(s), and has examined thoroughly and understood the nature and extent of the Contract Documents, Work, Site, locality, actual conditions, as-built conditions, and all local conditions and federal, state and local laws, and regulations that in any manner may affect cost, progress, performance, or furnishing of Work or that relate to any aspect of the means, methods, techniques, sequences, or procedures of construction to be employed by Contractor and safety precautions and programs incident thereto;

11.2.3.2. Contractor has conducted or obtained and has understood all examinations, investigations, explorations, tests, reports, and studies that pertain to the subsurface conditions, as-built conditions, underground facilities, and all other physical conditions at or contiguous to the Site or otherwise that may affect the cost, progress, performance, or furnishing of Work, as Contractor considers necessary for the performance or furnishing of Work at the Guaranteed Project Cost, within the Contract Time, and in accordance with the other terms and conditions of Contract Documents, including specifically the provisions of the General Construction Provisions; and no additional examinations, investigations, explorations, tests, reports, studies, or similar information or data are or will be required by Contractor for such purposes;

11.2.3.3. Contractor has correlated its knowledge and the results of all such observations, examinations, investigations, explorations, tests, reports, and studies with the terms and conditions of the Contract Documents;

11.2.3.4. Contractor has given the County prompt written notice of all conflicts, errors, ambiguities, or discrepancies that it has discovered in or among the Contract Documents and the actual conditions, and the written resolution thereof by the County is acceptable to Contractor;

11.2.3.5. Contractor has made a complete disclosure in writing to the County of all facts bearing upon any possible interest, direct or indirect, that Contractor believes any representative of the County or other officer or employee of the County presently has or will have in this Contract or in the performance thereof or in any portion of the profits thereof;

11.2.3.6. Contractor is charged with all information and knowledge that a reasonable contractor would ascertain from having performed this required work, investigation, research, and analysis. The Guaranteed Project Cost includes entire cost of all work "incidental" to completion of the Work.

11.2.3.7. **Conditions Shown on the Contract Documents:** Information as to underground conditions, as-built conditions, or other conditions or obstructions, indicated in the Contract Documents, e.g., on Drawings or in Specifications, has been obtained with reasonable care, and has been recorded in good faith. However, County only warrants, and Contractor may only rely, on the accuracy of limited types of information.

11.2.3.7.1. As to above-ground conditions or as-built conditions shown or indicated in the Contract Documents, there is no warranty, express or implied, or any representation express or implied, that such information is correctly shown or indicated. This information is verifiable by independent investigation and Contractor is required to make such verification. Contractor shall rely on the results of its own independent investigation. Contractor shall not rely on County-supplied information regarding above-ground conditions or as-built conditions. Subject to Public Contract Code section 7104, Contractor shall be responsible for all repairs of any utilities underground damaged by Contractor.

11.2.3.7.2. As to any subsurface condition shown or indicated in the Contract Documents, Contractor may rely only upon the general accuracy of actual reported depths, actual reported character of materials, actual reported soil types, actual reported water conditions, or actual

obstructions shown or indicated. County is not responsible for the completeness of such information for preparing a proposal or construction; nor is County responsible in any way for any conclusions or opinions of Contractor drawn from such information; nor is County responsible for subsurface conditions that are not specifically shown (for example, County is not responsible for soil conditions in areas contiguous to areas where a subsurface condition is shown).

11.2.4. Conditions Shown in Reports and Drawings Supplied for Informational Purposes: Reference is made to the document entitled Existing Information And Documentation Regarding Project Site, for identification of:

11.2.4.1. Subsurface Conditions: Those reports of explorations and tests of subsurface conditions at or contiguous to the Project Site(s) that have been utilized by Architect in preparing the Contract Documents; and

11.2.4.2. Physical Conditions: Those drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Project Site(s) that has been utilized by Architect in preparing the Contract Documents.

11.2.4.3. These reports and drawings are not Contract Documents and, except for any “technical” data regarding subsurface conditions specifically identified in Geotechnical Data and Existing Conditions, and underground facilities data, Contractor may not in any manner rely on the information in these reports and drawings. Subject to the foregoing, Contractor must make its own independent investigation of all conditions affecting the Work and must not rely on information provided by County.

11.3. Access to Work

County and its representatives shall at all times have access to Work wherever it is in preparation or progress, including storage and fabrication. Contractor shall provide safe and proper facilities for such access so that County's representatives may perform their functions.

11.4. Layout and Field Engineering

11.4.1. All field engineering required for layout of this Work and establishing grades for earthwork operations shall be furnished by Contractor at its expense. This Work shall be done by a qualified, California-registered civil engineer and/or licensed surveyor (as appropriate) approved in writing by County and Architect.

11.4.2. The Contractor shall be responsible for having ascertained pertinent local conditions such as location, accessibility, and general character of the Site and for having satisfied itself as to the conditions under which the Work is to be performed. County shall not be liable for any claim for allowances because of Contractor's error or negligence in acquainting itself with the conditions at the Site.

11.4.3. Contractor shall protect and preserve established benchmarks and monuments and shall make no changes in locations without the prior written approval of County. Contractor shall replace any benchmarks or monuments that are lost or destroyed subsequent to proper notification of County and with County's approval.

11.5. Utilities & Sanitary Facilities

Utilities necessary to complete the Work and to completely perform all of the Contractors' obligations shall be obtained by the Contractor without adjustment of the Contract Price. The Contractor shall furnish and install necessary or appropriate temporary distributions of utilities, including utilities furnished by the County. Any such temporary distributions shall be removed by the Contractor upon completion of the Work. The costs of

all such utility services, including the installation and removal of temporary distributions thereof, shall be borne by the Contractor and included in the Contract Price. Also refer to other utility requirements as indicated in the Specifications. At all times during Work at the Site, the Contractor shall obtain and maintain temporary sanitary facilities in conformity with applicable law, rule or regulation. The Contractor shall maintain temporary sanitary facilities in a neat and clean manner with sufficient toilet room supplies. Personnel engaged in the Work are not permitted to use toilet facilities at the Site. Also refer to other Sanitary facility requirements as indicated in the Specifications.

11.6. Surveys

Contractor shall provide surveys done by a qualified, California-registered civil engineer and/or licensed surveyor (as appropriate) to determine locations of construction, grading, and site work as required to perform the Work.

11.7. Regional Notification Center

The Contractor, except in an emergency, shall contact the appropriate regional notification center, this includes, but is not limited to, USA Dig Alert or 811 Dig and local agency having jurisdiction, at least two (2) days prior to commencing any excavation if the excavation will be conducted in an area or in a private easement that is known, or reasonably should be known, to contain subsurface installations other than the underground facilities owned or operated by the County, and obtain an inquiry identification number from that notification center. No excavation shall be commenced and/or carried out by the Contractor unless an inquiry identification number has been assigned to the Contractor or any Subcontractor and the Contractor has given the County the identification number. Any damages arising from Contractor's failure to make appropriate notification shall be at the sole risk and expense of the Contractor. Any delays caused by failure to make appropriate notification shall be at the sole risk of the Contractor and shall not be considered for an extension of the Contract time.

11.8. Existing Utility Lines

11.8.1. Pursuant to Government Code section 4215, County assumes the responsibility for removal, relocation, and protection of main or trunk utility lines and facilities located on the construction Site at the time of commencement of construction under this Contract with respect to any such utility facilities that are not identified in the Plans and Specifications. Contractor shall not be assessed for liquidated damages for delay in Project Completion caused by failure of County or the owner of a utility to provide for removal or relocation of such utility facilities.

11.8.2. Locations of existing utilities provided by County shall not be considered exact, but approximate within reasonable margin and shall not relieve Contractor of responsibilities to exercise reasonable care, including, but not limited, to potholing at no additional cost to the County, nor costs of repair due to Contractor's failure to do so. County shall compensate Contractor for the costs of locating, repairing damage not due to the failure of Contractor to exercise reasonable care, and removing or relocating such utility facilities not indicated in the Plans and Specifications with reasonable accuracy, and for equipment necessarily idle during such work.

11.8.3. No provision herein shall be construed to preclude assessment against Contractor for any other delays in Project Completion. Nothing in this Section shall be deemed to require County to indicate the presence of existing service laterals, appurtenances, or other utility lines, with the exception of main or trunk utility lines, whenever the presence of these utilities on the Site of the construction Project can be inferred from the presence of other visible facilities, such as buildings, meter junction boxes, trenches on or adjacent to the Site of the construction.

11.8.4. If Contractor, while performing Work under this Contract, discovers utility facilities not identified by County in Contract Plans and Specifications, Contractor shall immediately, but in no case longer than two (2) Business Days, notify the County and the utility in writing. The cost of repair for damage to above-

mentioned visible facilities without prior written notification to the County shall be borne by the Contractor.

11.9. Notification

Contractor understands, acknowledges and agrees that the purpose for prompt notification to the County pursuant to these provisions is to allow the County to investigate the condition(s) so that the County shall have the opportunity to decide how the County desires to proceed as a result of the condition(s). Accordingly, failure of Contractor to promptly notify the County in writing, pursuant to these provisions, shall constitute Contractor's waiver of any claim for damages or delay incurred as a result of the condition(s).

11.10. Hazardous Materials

11.10.1. County is the generator of any hazardous materials that are on the Site and which are not brought to the Site by Contractor. Contractor is solely responsible for the exacerbation of Hazardous Materials. The cost of assessment, storage, and disposal of such shall be included in the Work.

11.10.2. Contractor shall give written notice to County, Construction Manager, and Architect promptly, before any of the following conditions are disturbed, and in no event later than twenty-four (24) hours after first observance, of any:

11.10.2.1. Material that Contractor believes or suspects may be material that is hazardous waste or hazardous material, 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;

11.10.2.2. Other material that may present a substantial danger to persons or property exposed thereto in connection with Work at the Project Site(s), which may include, but is not limited to, publicly-deposited trash and hypodermic needles.

11.10.3. Contractor's written notice shall indicate whether the hazardous waste or material was shown or indicated in the Contract Documents to be within the scope of Work, and whether the materials were brought to the site by Contractor, its Subcontractors, suppliers, or anyone else for whom Contractor is responsible. As used in this section the term "hazardous materials" shall include, without limitation, asbestos, lead, Polychlorinated biphenyls (PCB(s)), petroleum and related hydrocarbons, and radioactive material.

11.10.4. In response to Contractor's written notice, the County shall investigate the identified conditions.

11.10.5. If County determines that conditions do not involve hazardous materials or that no change in terms of Contract is justified, County shall so notify Contractor in writing, stating reasons. If County and Contractor cannot agree on whether conditions justify an adjustment in Contract Price or Contract Time, or on the extent of any adjustment, Contractor shall proceed with the Work as directed by County.

11.10.6. If after receipt of notice from County, Contractor does not agree to resume Work based on a reasonable belief it is unsafe, or does not agree to resume Work under special conditions, then County may order that portion of Work connected with the hazardous condition or affected area, be deleted from the Work, or performed by others, or County may invoke its rights to terminate the Contract in whole or in part. County will determine entitlement to or the amount or extent of an adjustment, if any, in Contract Price or Contract Time as a result of deleting such portion of Work, or performing the Work by others.

11.10.7. If Contractor stops Work in connection with any hazardous condition and in any area affected thereby, Contractor shall immediately redeploy its workers, equipment, and materials, as necessary, to other portions of the Work to minimize delay and disruption.

11.10.8. Additional Warranties and Representations

11.10.8.1. Contractor represents and warrants that it, its employees, and its subcontractors and their employees, shall at all times have the required levels of familiarity with the Project Site(s) and the Work, training, and ability to comply fully with all applicable law and contract requirements for safe and expeditious performance of the Work, including whatever training is or may be required regarding the activities to be performed (including, but not limited to, all training required to address adequately the actual or potential dangers of Contract performance).

11.10.8.2. Contractor represents and warrants that it, its employees, and its subcontractors and their employees, shall at all times have and maintain in good standing any and all certifications and licenses required by applicable federal, state, and other governmental and quasi-governmental requirements applicable to the Work.

11.10.8.3. Contractor represents and warrants that it has studied carefully all requirements of the Specifications regarding procedures for demolition, hazardous waste abatement, or safety practices, specified in the Contract, and prior to submitting its Response, has either (a) verified to its satisfaction that the specified procedures are adequate and sufficient to achieve the results intended by the Contract Documents, or (b) by way of approved "or equal" request or request for clarification and written Addenda, secured changes to the specified procedures sufficient to achieve the results intended by the Contract Documents. Contractor accepts the risk that any specified procedure will result in a completed Project in full compliance with the Contract Documents.

11.10.9. Monitoring and Testing

11.10.9.1. County reserves the right, in its sole discretion, to conduct air monitoring, earth monitoring, Work monitoring, and any other tests (in addition to testing required under the agreement or applicable law), to monitor Contract requirements of safe and statutorily compliant work methods and (where applicable) safe re-entry level air standards under state and federal law upon completion of the job, and compliance of the work with periodic and final inspection by public and quasi-public entities having jurisdiction.

11.10.9.2. Contractor acknowledges that County has the right to perform, or cause to be performed, various activities and tests including, but not limited to, pre-abatement, during abatement, and post-abatement air monitoring, that County shall have no obligation to perform said activities and tests, and that a portion of said activities and tests may take place prior to the completion of the Work by Contractor. In the event County elects to perform these activities and tests, Contractor shall afford County ample access to the Site and all areas of the Work as may be necessary for the performance of these activities and tests. Contractor will include the potential impact of these activities or tests by County in the Contract Price and the Scheduled Completion Date.

11.10.9.3. Notwithstanding County's rights granted by this paragraph, Contractor may retain its own industrial hygiene consultant at Contractor's own expense and may collect samples and perform tests including, but not limited to, pre-abatement, during abatement, and post-abatement personal air monitoring, and County reserves the right to request documentation of all such activities and tests performed by Contractor relating to the Work and Contractor shall provide that documentation immediately upon request, but in no event later than THREE (3) days upon request.

11.10.10. Compliance with Laws

11.10.10.1. Contractor shall perform safe, expeditious, and orderly work in accordance with the best practices and the highest standards in the hazardous waste abatement, removal, and disposal industry, the applicable law, and the Contract Documents, including, but not limited to, all responsibilities relating to the preparation and return of waste shipment records, all requirements of

the law, delivering of all requisite notices, and obtaining all necessary governmental and quasi-governmental approvals.

11.10.10.2. Contractor represents that it is familiar with and shall comply with all laws applicable to the Work or completed Work including, but not limited to, all federal, state, and local laws, statutes, standards, rules, regulations, and ordinances applicable to the Work relating to:

11.10.10.2.1. The protection of the public health, welfare and environment;

11.10.10.2.2. Storage, handling, or use of asbestos, PCB, lead, petroleum based products or other hazardous materials;

11.10.10.2.3. The generation, processing, treatment, storage, transport, disposal, destruction, or other management of asbestos, PCB, lead, petroleum, or hazardous waste materials or other waste materials of any kind; and

11.10.10.2.4. The protection of environmentally sensitive areas such as wetlands and coastal areas.

11.10.11. Disposal

11.10.11.1. Contractor has the sole responsibility for determining current waste storage, handling, transportation, and disposal regulations for the Project Site(s) and for each waste disposal facility. Contractor must comply fully at its sole cost and expense with these regulations and any applicable law. County may, but is not obligated to, require submittals with this information for it to review consistent with the Contract Documents.

11.10.11.2. Contractor shall develop and implement a system acceptable to County to track hazardous waste from the Project Site(s) to disposal, including appropriate "Hazardous Waste Manifests" on the EPA form, so that County may track the volume of waste deposited in each landfill and receive from each facility a certificate of receipt.

11.10.11.3. Contractor shall provide County with the name and address of each waste disposal facility prior to any disposal, and County shall have the right to reject any proposed disposal facility. Contractor shall not use any disposal facility to which County has objected. Contractor shall document actual disposal or destruction of waste at a designated facility by completing a disposal certificate or certificate of destruction forwarding the original to County.

11.10.12. Permits

11.10.12.1. Before performing any of the Work, and at such other times as may be required by applicable law, Contractor shall deliver all requisite notices and obtain the approval of all governmental and quasi-governmental authorities having jurisdiction over the Work. Contractor shall submit evidence satisfactory to County that Contractor and any disposal facility:

11.10.12.1.1. Have obtained all required permits, approvals, and the like in a timely manner both prior to commencement of the Work and thereafter as and when required by applicable law, and

11.10.12.1.2. Are in compliance with all such permits, approvals and the regulations.

For example, before commencing any work in connection with the Work involving asbestos-containing materials, or PCBs, or other hazardous materials subject to regulation, Contractor agrees to provide the required notice of intent to renovate or demolish to the appropriate state or federal agency having jurisdiction, by certified mail, return receipt requested, or by some other method of

transmittal for which a return receipt is obtained, and to send a copy of that notice to County. Contractor shall not conduct any Work involving asbestos-containing materials or PCBs unless Contractor has first confirmed that the appropriate agency having jurisdiction is in receipt of the required notification. All permits, licenses, and bonds that are required by governmental or quasi-governmental authorities, and all fees, deposits, tap fees, offsite easements, and asbestos and PCB disposal facilities expenses necessary for the prosecution of the Work, shall be procured and paid for by Contractor. Contractor shall give all notices and comply with the all applicable laws bearing on the conduct of the Work as drawn and specified. If Contractor observes or reasonably should have observed that Plans and Specifications and other Contract Documents are at variance therewith, it shall be responsible for promptly notifying County in writing of such fact. If Contractor performs any Work contrary to applicable laws, it shall bear all costs arising therefrom.

11.10.12.2. In the case of any permits or notices held in County 's name or of necessity to be made in County 's name, County shall cooperate with Contractor in securing the permit or giving the notice, but the Contractor shall prepare for County review and execution upon approval, all necessary applications, notices, and other materials.

11.10.13. Lead as a Health Hazard

11.10.13.1. Lead poisoning is recognized as a serious environmental health hazard facing children today. Even at low levels of exposure, much lower than previously believed, lead can impair the development of a child's central nervous system, causing learning disabilities, and leading to serious behavioral problems. Lead enters the environment as tiny lead particles and lead dust disburges when paint chips, chalks, peels, wears away over time, or is otherwise disturbed. Ingestion of lead dust is the most common pathway of childhood poisoning; lead dust gets on a child's hands and toys and then into a child's mouth through common hand-to-mouth activity. Exposures may result from construction or remodeling activities that disturb lead paint, from ordinary wear and tear of windows and doors, or from friction on other surfaces.

11.10.13.2. Ordinary construction and renovation or repainting activities carried out without lead-safe work practices can disturb lead-based paint and create significant hazards. Improper removal practices, such as dry scraping, sanding, or water blasting painted surfaces, are likely to generate high volumes of lead dust.

11.10.13.3. Because the Contractor and its employees will be providing services for the County, and because the Contractor's work may disturb lead-containing building materials, CONTRACTOR IS HEREBY NOTIFIED of the potential presence of lead-containing materials located within certain buildings utilized by the County. All buildings built prior to 1993 are presumed to contain some lead-based paint until sampling proves otherwise.

11.10.14. Overview of California Law

11.10.14.1. The Federal Occupational Safety and Health Administration ("Fed/OSHA") and the California Division of Occupational Safety and Health ("Cal/OSHA") have implemented safety orders applicable to all construction work where a contractor's employee may be occupationally exposed to lead.

11.10.14.2. The OSHA Regulations apply to all construction work where a contractor's employee may be occupationally exposed to lead. The OSHA Regulations contain specific and detailed requirements imposed on contractors subject to that regulation. The OSHA Regulations define construction work as work for construction, alteration, and/or repair, including painting and decorating. It includes, but is not limited to, the following:

11.10.14.2.1. Demolition or salvage of structures where lead or materials containing lead are present;

- 11.10.14.2.2. Removal or encapsulation of materials containing lead;
- 11.10.14.2.3. New construction, alteration, repair, or renovation of structures, substrates, or portions thereof, that contain lead, or materials containing lead;
- 11.10.14.2.4. Installation of products containing lead;
- 11.10.14.2.5. Lead contamination/emergency cleanup;
- 11.10.14.2.6. Transportation, disposal, storage, or containment of lead or materials containing lead on the site or location at which construction activities are performed; and
- 11.10.14.2.7. Maintenance operations associated with the construction activities described in the subsection.

11.10.14.3. Because it is assumed by the County that all painted surfaces (interior as well as exterior) within the County contain some level of lead, it is imperative that the Contractor, its workers and subcontractors fully and adequately comply with all applicable laws, rules and regulations governing lead-based materials (including title 8, California Code of Regulations, section 1532. 1).

11.10.14.4. The Contractor must notify the County if any Work may result in the disturbance of lead-containing building materials. Any and all Work that may result in the disturbance of lead-containing building materials must be coordinated through the County. A signed copy of this Certification must be on file prior to beginning Work on the Project, along with all current insurance certificates.

11.10.15. Renovation, Repair and Painting Rule, Section 402(c)(3) of the Toxic Substances Control Act

11.10.15.1. In 2008, the U.S. Environmental Protection Agency, issued a rule pursuant to the authority of Section 402(c)(3) of the Toxic Substances Control Act, requiring lead safe work practices to reduce exposure to lead hazards created by renovation, repair and painting activities that disturb lead-based paint (Renovation, Repair and Painting Rule). Renovations in homes, childcare facilities, and buildings built prior to 1978 must be conducted by certified renovations firms, using renovators with accredited training, and following the work practice requirements to reduce human exposures to lead.

11.10.15.2. Contractor, its workers and subcontractors must fully and adequately comply with all applicable laws, rules and regulations governing lead-based materials, including those rules and regulations appearing within title 40 of the Code of Federal Regulations as part 745 (40 CFR 745).

11.10.15.3. The requirements apply to all contractors who disturb lead-based paint in a six-square-foot area or greater indoors or a 20-square-foot area outdoors. If a DPH-certified inspector or risk assessor determines that a home constructed before 1978 is lead-free, the federal certification is not required for anyone working on that particular building.

11.10.16. Contractor's Liability

11.10.16.1. If the Contractor fails to comply with any applicable laws, rules, or regulations, and that failure results in a site or worker contamination, the Contractor will be held solely responsible for all costs involved in any required corrective actions, and shall defend, indemnify, and hold harmless the County, pursuant to the indemnification provisions of the Contract, for all damages and other claims arising therefrom.

11.10.16.2. If lead disturbance is anticipated in the Work, only persons with appropriate accreditation, registrations, licenses, and training shall conduct this Work.

11.10.16.3. It shall be the responsibility of the Contractor to properly dispose of any and all waste products, including, but not limited to, paint chips, any collected residue, or any other visual material that may occur from the prepping of any painted surface. It will be the responsibility of the Contractor to provide the proper disposal of any hazardous waste by a certified hazardous waste hauler. This company shall be registered with the Department of Transportation (DOT) and shall be able to issue a current manifest number upon transporting any hazardous material from any site within the County.

11.10.16.4. The Contractor shall provide the County with any sample results prior to beginning Work, during the Work, and after the completion of the Work. The County may request to examine, prior to the commencement of the Work, the lead training records of each employee of the Contractor.

11.11. No Signs

Neither the Contractor nor any other person or entity shall display any signs not required by law or the Contract Documents at the Site, fences, trailers, offices, or elsewhere on the Site without specific prior written approval of the County.

12. TRENCHES

12.1. Trenches Greater Than Five Feet

Pursuant to Labor Code section 6705, if the Contract Price exceeds \$25,000 and involves the excavation of any trench or trenches five (5) feet or more in depth, the Contractor shall, in advance of excavation, promptly submit to the County and/or a registered civil or structural engineer employed by the County or Architect, a detailed plan showing the design of shoring for protection from the hazard of caving ground during the excavation of such trench or trenches.

12.2. Excavation Safety

If such plan varies from the Shoring System Standards established by the Construction Safety Orders, the plan shall be prepared by a registered civil or structural engineer, but in no case shall such plan be less effective than that required by the Construction Safety Orders. No excavation of such trench or trenches shall be commenced until said plan has been accepted by the County or by the person to whom authority to accept has been delegated by the County.

12.3. No Tort Liability of County

Pursuant to Labor Code section 6705, nothing in this Article shall impose tort liability upon the County or any of its employees.

12.4. No Excavation without Permits

The Contractor shall not commence any excavation Work until it has secured all necessary permits including the required CAL OSHA excavation/shoring permit. Any permits shall be prominently displayed on the Site prior to the commencement of any excavation.

12.5. Discovery of Hazardous Waste, Unusual Conditions and /or Unforeseen Conditions

12.5.1. Pursuant to Public Contract Code section 7104, if the Work involves digging trenches or other

excavations that extend deeper than four (4) feet below the surface, the Contractor shall immediately, but in no case longer than two (2) Business Days, and before the following conditions are disturbed, notify the County, in writing, of any:

12.5.1.1. 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.

12.5.1.2. Subsurface or latent physical conditions at the Site differing from those indicated.

12.5.1.3. Unknown physical conditions at the Site of any unusual nature, such as publicly-deposited trash which may include hypodermic needles, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.

12.5.1.4. The County 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.

12.5.1.5. In the event that a dispute arises between County 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 by the Contract, but shall proceed with all work to be performed under the Contract. The Contractor shall retain any and all rights provided by the Contract or by law that pertain to the resolution of disputes and protests, which include the requirement that Contractor complies with the notice and PCO provisions of the Contract Documents. Contractor's failure to submit a proposed change order pursuant to the terms of the Contract Documents shall be deemed a waiver of Contractor's right to an adjustment of the Contract Price of Contract Time.

13. INSURANCE AND BONDS

[PLEASE NOTE THAT THE INSURANCE PROVISIONS ARE SUBJECT TO CHANGE AS REQUIRED BY THE COUNTY BASED ON THE PROJECT SCOPE AND RISK]

13.1. Insurance

Unless different provisions and/or limits are indicated in the **Supplementary Conditions**, all insurance required of Contractor and/or its Subcontractor(s) shall be in the amounts indicated herein and include the provisions set forth herein.

13.1.1. Commercial General Liability and Automobile Liability Insurance

13.1.1.1. Contractor shall procure and maintain, during the life of the Contract, Commercial General Liability Insurance and Automobile Liability Insurance that shall protect Contractor, County, Construction Manager(s), and Architect(s) from all claims for bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising from operations under the Contract. This coverage shall be provided in a form at least as broad as the Insurance Services Office (ISO) standard form. Contractor shall ensure that Products Liability and Completed Operations coverage, Fire Damage Liability, and any Auto including owned, non-owned, and hired, are included within the above policies and at the required limits, or Contractor shall procure and maintain these coverages separately.

13.1.1.2. Contractor's deductible or self-insured retention for its Commercial General Liability

Insurance policy shall not exceed \$250,000 unless approved in writing by County.

13.1.2. Excess Liability and/or Umbrella Liability Insurance

13.1.2.1. Contractor shall procure and maintain, during the life of the Contract, an Excess Liability and/or Umbrella Liability Insurance Policy. Any Umbrella Liability Insurance Policy shall protect Contractor, County, Construction Manager(s), Project Manager(s), and Architect(s) in the amounts indicated herein, and shall comply with all requirements for Commercial General Liability and Automobile Liability and Employers' Liability Insurance. This coverage shall be provided in a form at least as broad as the Insurance Services Office (ISO) standard form.

13.1.2.2. There shall be no gap between the per occurrence amount of any underlying policy and the start of the coverage under the Umbrella Liability Insurance Policy.

13.1.2.3. Whether this Excess Liability and/or Umbrella Liability Insurance Policy is written on a "follow form" or "stand alone" form, the coverages shall equal or greater than the Contractor's Commercial General Liability and Automobile Liability and Employers' Liability Insurance with no exclusions that reduce or eliminate coverage items.

13.1.3. Subcontractor(s): Contractor shall require its Subcontractor(s), if any, to procure and maintain Commercial General Liability Insurance, Automobile Liability Insurance, and Umbrella Liability Insurance with minimum limits equal to at least fifty percent (50%) of the amounts required of the Contractor.

13.1.4. Workers' Compensation and Employers' Liability Insurance

13.1.4.1. In accordance with provisions of section 3700 of the California Labor Code, the Contractor and every Subcontractor shall be required to secure the payment of compensation to its employees.

13.1.4.2. Contractor shall procure and maintain, during the life of this Contract, Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees engaged in Work under the Contract, on/or at the Site of the Project. This coverage shall cover, at a minimum, medical and surgical treatment, disability benefits, rehabilitation therapy, and survivors' death benefits. Contractor shall require its Subcontractor(s), if any, to procure and maintain Workers' Compensation Insurance and Employers' Liability Insurance for all employees of Subcontractor(s). Any class of employee or employees not covered by a Subcontractor's insurance shall be covered by Contractor's insurance. If any class of employee or employees engaged in Work under the Contract, on or at the Site of the Project, are not protected under the Workers' Compensation Insurance, Contractor shall provide, or shall cause a Subcontractor to provide, adequate insurance coverage for the protection of any employee(s) not otherwise protected before any of those employee(s) commence work.

13.1.5. Builder's Risk Insurance: Builder's Risk "All Risk" Insurance.

Contractor shall procure and maintain, during the life of this Contract, Builder's Risk (Course of Construction), or similar first party property coverage acceptable to the County, issued on a replacement cost value basis. The cost shall be consistent with the total replacement cost of all insurable Work included within the Contract Documents. Coverage is to insure against all risks of accidental physical loss and shall include without limitation the perils of vandalism and/or malicious mischief (both without any limitation regarding vacancy or occupancy), sprinkler leakage, water damage, mold, civil authority, theft, sonic disturbance, earthquake, flood, collapse, wind, fire, war, terrorism, lightning, smoke, and rioting. Coverage shall include debris removal, demolition, increased costs due to enforcement of all applicable ordinances and/or laws in the repair and replacement of damaged and undamaged portions of the property, and reasonable costs for the Architect's and engineering services and expenses required as a result of any insured loss upon the Work and Project, including completed Work and Work in progress, to the full insurable value thereof. Contractor must review the Supplementary Conditions to confirm the

scope of this requirement and if the County has modified this provision.

13.1.6. Proof of Carriage of Insurance and Other Requirements: Endorsements and Certificates

13.1.6.1. Contractor shall not commence Work nor shall it allow any Subcontractor to commence Work under the Contract, until Contractor and its Subcontractor(s) have procured all required insurance and Contractor has delivered in duplicate to the County complete endorsements (or entire insurance policies) and certificates indicating the required coverages have been obtained, and the County has approved these documents.

13.1.6.2. Endorsements, certificates, and insurance policies shall include the following:

13.1.6.2.1. A clause stating:

“This policy shall not be amended, canceled or modified and the coverage amounts shall not be reduced until notice has been mailed to County, Architect, and Construction Manager stating date of amendment, modification, cancellation or reduction. Date of amendment, modification, cancellation or reduction may not be less than thirty (30) days after date of mailing notice.”

13.1.6.2.1.1. In lieu of receiving an endorsement with this clause, the County may, at its sole discretion, accept written notification from Contractor and its insurer to the County of any amendments, modifications, cancellations or reduction in coverage, not less than thirty (30) days prior to such coverage changes occur.

13.1.6.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.

13.1.6.3. All endorsements, certificates and insurance policies shall state that County, its trustees, employees and agents, the State of California, Construction Manager(s), Project Manager(s), Inspector(s) and Architect(s) are named additional insureds under all policies except Workers' Compensation Insurance and Employers' Liability Insurance.

13.1.6.4. Contractor's and Subcontractors' insurance policy(s) shall be primary and non-contributory to any insurance or self-insurance maintained by County, its trustees, employees and/or agents, the State of California, Construction Manager(s), Project Manager(s), Inspector(s), and/or Architect(s).

13.1.6.5. All endorsements shall waive any right to subrogation against any of the named additional insureds.

13.1.6.6. All policies shall be written on an occurrence form.

13.1.6.7. Unless otherwise stated in the **Supplementary Conditions**, all of Contractor's insurance shall be placed with insurers **ADMITTED** in California with a current A.M. Best's rating of no less than **A—** or **A:VII**.

13.1.6.8. The insurance requirements set forth herein shall in no way limit the Contractor's liability arising out or relating to the performance of the Work or related activities.

13.1.6.9. Failure of Contractor and/or its Subcontractor(s) to comply with the insurance requirements herein shall be deemed a material breach of the Agreement.

13.1.7. Insurance Policy Limits

Unless different limits are indicated in the Supplementary Conditions, the limits of insurance shall not be less than the following amounts:

Commercial General Liability	Includes: Personal & Advertising Injury, Product Liability and Completed Operations	\$2,000,000 each occurrence; \$4,000,000 general aggregate
Automobile Liability – Any Auto	Combined Single Limit	\$2,000,000 per occurrence
Excess Liability (Umbrella)		\$6,000,000 per occurrence; \$6,000,000 aggregate
Workers Compensation		Statutory limits pursuant to State law
Employers' Liability		\$2,000,000 each accident, each disease; \$2,000,000 policy limit
Builder's Risk (Course of Construction)		Issued for the value and scope of Work indicated herein.
Property of Others	Combined Single Limit General Aggregate	Issued for the value and scope of Work stored off-site.

13.2. Contract Security – Bonds

13.2.1. Contractor shall furnish two surety bonds issued by a California admitted surety insurer as follows:

13.2.1.1. **Performance Bond:** A bond in an amount at least equal to one hundred percent (100%) of Contract Price as security for faithful performance of this Contract.

13.2.1.2. **Payment Bond:** A bond in an amount at least equal to one hundred percent (100%) of the Contract Price as security for payment of persons performing labor and/or furnishing materials in connection with the Contract.

13.2.2. Cost of bonds shall be included in the Contract Price.

13.2.3. All bonds related to this Project shall be on the forms provided in the Contract Documents and shall comply with all requirements of the Contract Documents, including, without limitation, the bond forms.

14. WARRANTY/GUARANTEE/INDEMNITY

14.1. Warranty/Guarantee

14.1.1. The Contractor shall obtain and preserve for the benefit of the County, manufacturer's warranties on materials, fixtures, and equipment incorporated into the Work.

14.1.2. In addition to guarantees required elsewhere, Contractor shall, and hereby does guarantee and warrant all Work furnished on the job against all defects for a period of ONE (1) year after the later of the following dates:

14.1.2.1. Project Completion,

14.1.2.2. The final commissioning date for all systems, equipment and components that are

within the Project, if any.

14.1.2.3. At the County's sole option, Contractor shall repair or replace any and all of that Work, together with any other Work that may be displaced in so doing, that may prove defective in workmanship and/or materials within a ONE (1) year period from date of Completion as defined above without expense whatsoever to County. In the event of failure of Contractor and/or Surety to commence and pursue with diligence said replacements or repairs within TEN (10) days after being notified in writing, Contractor and Surety hereby acknowledge and agree that County is authorized to proceed to have defects repaired and made good at expense of Contractor and/or Surety who hereby agree to pay costs and charges therefore immediately on demand.

14.1.3. If, in the opinion of County, defective work creates a dangerous condition or requires immediate correction or attention to prevent further loss to County or to prevent interruption of operations of County, County will attempt to give the notice required above. If Contractor or Surety cannot be contacted or neither complies with County's request for correction within a reasonable time as determined by County, County may, notwithstanding the above provision, proceed to make all corrections and/or provide attentions the County believes are necessary. The costs of correction or attention shall be charged against Contractor and Surety of the guarantees provided in this Article or elsewhere in the Contract Documents.

14.1.4. The above provisions do not in any way limit the guarantees on any items for which a longer guarantee is specified or on any items for which a manufacturer gives a guarantee for a longer period. Contractor shall furnish to County all appropriate guarantee or warranty certificates as indicated in the Specifications or upon request by County.

14.1.5. Nothing herein shall limit any other rights or remedies available to County.

14.2. Indemnity

14.2.1. To the furthest extent permitted by California law, Contractor shall indemnify, defend with legal counsel reasonably acceptable to the County, keep and hold harmless the County and its consultants, the Architect and its consultants, the Construction Manager and its consultants, separate contractors, and their respective board members, officers, representatives, contractors, agents, and employees, in both individual and official capacities ("Indemnitees"), against all suits, claims, damages, losses, and expenses, including but not limited to attorney's fees, caused by, arising out of, resulting from, or incidental to, the performance of the Work by Contractor, its Subcontractors, vendors, or suppliers, including, without limitation, any such suit, claim, damage, loss, or expense attributable to, without limitation, bodily injury, sickness, disease, death, alleged patent violation or copyright infringement, or to injury to or destruction of tangible property (including damage to the Work itself) including the loss of use resulting therefrom, except to the extent caused by the negligence, active negligence, or willful misconduct of the Indemnitees, and/or to any extent that would render these provisions void or unenforceable. This agreement and obligation of Contractor shall not be construed to negate, abridge, or otherwise reduce any right or obligation of indemnity that would otherwise exist as to any party or person described herein. This indemnification, defense, and hold harmless obligation includes any failure or alleged failure by Contractor to comply with any provision of law, any failure or alleged failure to timely and properly fulfill all of its obligations under the Contract Documents in strict accordance with their terms, and without limitation, any stop payment notice actions or liens, including liens by the California Department of Labor Standards Enforcement.

14.2.2. Contractor shall give prompt notice to the County in the event of any injury (including death), loss, or damage included herein. Without limitation of the provisions herein, if Contractor's agreement to indemnify, defend, and hold harmless the Indemnitees as provided herein against liability for damage arising out of bodily injury to persons or damage to property caused by or resulting from the negligence of any of the Indemnitees shall to any extent be or be determined to be void or unenforceable, it is the intention of the parties that these circumstances shall not otherwise affect the validity or enforceability of

Contractor's agreement to indemnify, defend, and hold harmless the rest of the Indemnitees, as provided herein, and in the case of any such suits, claims, damages, losses, or expenses caused in part by the default, negligence, or act or omission of Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, and in part by any of the Indemnitees, Contractor shall be and remain fully liable on its agreements and obligations herein to the full extent permitted by law.

14.2.3. In any and all claims against any of the Indemnitees by any employee of Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, Contractor's indemnification obligation herein shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

14.2.4. The defense and indemnification obligations hereunder shall survive the Completion of Work, including the warranty/guarantee period, and/or the termination of the Agreement.

15. TIME

15.1. Hours of Work

Work shall be performed during operational hours of the Airport as permitted by the appropriate governmental agencies except that in the event of an emergency, or when required to complete the Work in accordance with job progress, Work may be performed at other hours requested by the Contractor with the advance written consent, minimum 72 hours advance request, of the County and approval of any required governmental agencies (e.g., the city within which the Project is located). Contractor shall confirm with the governmental agencies what the permitted work hours are for the jurisdiction in which the Project is located.

15.2. Progress and Project Completion

15.2.1. Time of the Essence

Time limits stated in the Contract Documents are of the essence to the Contract. The Contractor confirms that the Contract Time is a reasonable period for Project Completion.

15.2.2. No Commencement Without Insurance

The Contractor shall not commence operations on the Project or elsewhere prior to the effective date of insurance and bonds. The date of commencement of the Work shall not be changed by the effective date of such insurance. If Contractor commences Work without insurance and bonds, all Work is performed at Contractor's peril and shall not be compensable until and unless Contractor secures bonds and insurance pursuant to the terms of the Contract Documents and subject to County claim for damages.

15.2.3. Sufficient Forces

Contractor and Subcontractors shall continuously furnish sufficient forces to ensure the prosecution of the Work in accordance with the Construction Schedule to obtain Project Completion within the Contract Time.

15.3. Schedule

Contractor shall provide to County, Construction Manager, and Architect a schedule in conformance with and as required in the Contract Documents.

15.4. Expeditious Completion

The Contractor shall proceed expeditiously with adequate forces and shall achieve Completion within the Contract Time.

16. EXTENSIONS OF TIME – LIQUIDATED DAMAGES

16.1. Contractor's Notice of Delay

16.1.1. In addition to the requirements indicated in this subsection, Contractor shall notify the County pursuant to the claims provisions in these General Conditions of any anticipated delay and its cause.

16.1.2. Contractor shall, within **FIVE (5)** calendar days of any delay impacting the critical path in completing the Work, notify County in writing of the causes of the delay including documentation and facts explaining the delay.

16.1.3. Any request by Contractor for an adjustment of the Contract Price or the Contract Time for a delay shall be submitted in accordance with the provisions in the Contract Documents governing changes in Work. When requesting time, requests must be submitted with full justification and documentation. Such justification must be based on the official Construction Schedule as updated at the time of occurrence of the delay or execution of Work related to any changes to the Scope of Work.

16.1.4. Any claim for delay must include the following information as support, without limitation:

16.1.4.1. **Duration.** The duration of the activity relating to the changes in the Work and the resources (manpower, equipment, material, etc.) required to perform the activities within the stated duration.

16.1.4.2. **Logical Ties / Fragnets.**

16.1.4.2.1. Specific logical ties to the Contract Schedule for the proposed changes and/or delay showing the activity/activities in the Construction Schedule that are affected by the change and/or delay.

16.1.4.2.2. A portion of any delay of seven (7) days or more must be provided.

16.1.4.2.3. Include a "fragnet" analysis for the portion of the schedule.

16.1.4.2.4. Include the activities the Contractor contends are impacted by the delay.

16.1.4.2.5. Include a detailed time impact analysis.

16.1.4.3. **Updated Construction Schedule.** A recovery or updated Construction Schedule must be submitted.

16.1.5. County shall review the facts and extent of any noticed delay and may grant Contract Time extension(s) of time for completing Work when, in the County's judgment, the findings of fact justify an extension.

16.1.6. Extension(s) of time shall apply only to that portion of Work affected by delay, and shall not apply to other portions of Work not so affected.

16.1.7. An extension of time may only be granted if Contractor has timely submitted the updated Construction Schedule as required herein.

16.1.8. Following submission of a notice of delay, the County may determine whether the delay is to be considered:

16.1.8.1. Excusable and Compensable, Excusable and Non-Compensable, or Unexcused;

16.1.8.2. How long the delay continues; and

16.1.8.3. To what extent the prosecution and Completion of the Work might be delayed thereby.

16.1.9. Contractor's failure to request adjustment(s) of the Contract Time in strict conformity with applicable provisions of the Contract Documents shall be deemed Contractor's waiver of its right to assert a claim for a delay.

16.1.10. Limitations Upon Adjustment of Contract Time on Account of Delays. Any adjustment of the Contract Time on account of an Excusable Delay or a Compensable Delay shall be limited as set forth herein. No adjustment of the Contract Time shall be made on account of any Excusable Delays or Compensable Delays unless those delay(s) actually and directly impact Work or Work activities on the critical path of the then current and updated approved Construction Schedule as of the date on which a delay first occurs. The County shall not be deemed in breach of, or otherwise in default of any obligation hereunder, if the County shall deny a request by the Contractor for an adjustment of the Contract Time for any delay that does not actually and directly impact Work on the then current and updated approved Construction Schedule. If an Excusable Delay and a Compensable Delay occur concurrently, the maximum extension of the Contract Time shall be the number of days from the commencement of the first delay to the cessation of the delay that ends last. If an Unexcused Delay occurs concurrently with either an Excusable Delay or a Compensable Delay, the maximum extension of the Contract Time shall be the number of days, if any, which the Excusable Delay or the Compensable Delay exceeds the period of time of the Unexcused Delay.

16.2. Excusable and Compensable Delay(s)

16.2.1. Contractor is **not** entitled to additional compensation for any delay, even a delay caused by Adverse Weather or an Excusable Delay, unless **all** of the following conditions are met:

16.2.1.1. The County is responsible for the delay;

16.2.1.2. The delay is unreasonable under the circumstances involved and impacts the critical path of the Work and extends the most current Contract Completion date;

16.2.1.3. The delay was not within the contemplation of County and Contractor; and

16.2.1.4. Contractor complies with the claims procedure of the Contract Documents.

16.2.1.5. The delay could not have been avoided or mitigated by the Contractor's care, prudence, foresight, and diligence.

16.2.1.6. The delay extends the most current Contract Completion date, and is not concurrent with a Contractor caused delay or other type of Excusable Delay.

16.2.2. In accordance with California Public Contract Code section 7102, if the Contractor's progress is delayed by the events described in the preceding subsection, Contractor shall not be precluded from the recovery of damages directly and proximately resulting therefrom. In that event, Contractor's damages, if any, shall be limited to direct, actual and unavoidable additional costs of labor, materials or construction equipment directly resulting from that delay, and shall exclude special, indirect or consequential damages. In no event shall Contractor seek costs or damages for delays, interruptions, hindrances or disruptions to the Work for on-Site or off-Site costs or damages based upon formulas, e.g. Eichleay or other formula. Except as expressly provided for herein, Contractor shall not have any other claim, demand or right to adjustment of the Contract Price arising out of delay, interruption, hindrance or disruption to the progress of the Work. Adjustments to the Contract Price and the Contract Time, if any, on account of Changes to the Work or Suspension of the Work shall be governed by the applicable provisions of the Contract Documents, including without limitation, the "Changes in the Work" section

and the percentages in the "Format for Proposed Change" section of these General Conditions.

16.3. Excusable and Non-Compensable Delay(s)

16.3.1. An "Excusable Delay" shall mean an interruption of the Work beyond the reasonable control of the Contractor and that:

16.3.1.1. Could have not been avoided by the Contractor exercising care, prudence, foresight, and diligence, and

16.3.1.2. Actually extended the most current Project Completion date.

16.3.2. The Contractor may be entitled to an extension of the Project Completion date if there is an Excusable Delay, but the Contractor shall not be entitled to additional compensation for an Excusable Delay.

16.3.3. Excusable Delays are limited to interruptions that satisfy the above requirements and that are acts of God; acts of a public enemy; fires; floods; windstorms; tornadoes; earthquakes; wars; riots; insurrections; epidemics; quarantine restrictions; strikes; lockouts; fuel shortages; freight embargoes; and Adverse Weather that satisfies the requirements herein.

16.3.4. Contractor is aware that governmental agencies and utilities, including, without limitation, gas companies, electrical utility companies, water districts, cities, counties and other agencies may have to approve Contractor-prepared drawings or approve a proposed installation. Contractor shall include in its Response, time for possible review of its drawings and for reasonable delays and damages that may be caused by such agencies. Contractor is not entitled to make a claim for damages or delays or an Excusable Delay arising from the review of Contractor's drawings or other approvals from the Department of General Services, gas companies, electrical utility companies, water districts, and other agencies.

16.3.5. Neither the financial resources of the Contractor or any person or entity directly or indirectly engaged by the Contractor in performance of any portion of the Work shall be deemed conditions beyond the control of the Contractor. If an event of Excusable Delay occurs, the Contract Time shall be subject to adjustment hereunder only if the Contractor establishes: (i) full compliance with all applicable provisions of the Contract Documents relative to the method, manner and time for Contractor's notice and request for adjustment of the Contract Time; (ii) that the event(s) forming the basis for Contractor's request to adjust the Contract Time are outside the reasonable control and without any fault or neglect of the Contractor or any person or entity directly or indirectly engaged by Contractor in performance of any portion of the Work; and (iii) that the event(s) forming the basis for Contractor's request to adjust the Contract Time directly and adversely impacted the critical path of the Work as indicated in the approved Construction Schedule or the most recent updated approved Construction Schedule relative to the date(s) of the claimed event(s) of Excusable Delay.

16.3.6. Computation of Time / Adverse Weather

16.3.6.1. The Contractor will only be allowed a time extension for Adverse Weather conditions if requested by Contractor within five (5) calendar days of the Adverse Weather event, and only if all of the following conditions are met – thereby making the resulting delay an Excusable Delay.

16.3.6.1.1. The weather conditions constitute Adverse Weather, as defined herein;

16.3.6.1.2. Contractor can verify that the Adverse Weather caused delays in excess of five (5) hours of the indicated labor required to complete the scheduled tasks of Work on the day affected by the Adverse Weather;

16.3.6.1.3. The Contractor's crew is dismissed as a result of the Adverse Weather; and

16.3.6.2. The number of days of delay for the month exceeds the following parameters. The County and Contractor may negotiate a different minimum number of days or a cumulative number of days for the duration of the Project, which shall be as indicated in the Supplementary Conditions:

January	<u>7</u>	July	<u>0</u>
February	<u>7</u>	August	<u>0</u>
March	<u>6</u>	September	<u>0</u>
April	<u>3</u>	October	<u>2</u>
May	<u>1</u>	November	<u>3</u>
June	<u>0</u>	December	<u>3</u>

16.3.7. A day-for-day extension will only be allowed for those days in excess of those indicated herein.

16.3.8. The Contract Time has been determined with consideration given to the average climate weather conditions prevailing in the County in which the Project is located.

16.3.9. The Contractor shall work seven (7) days per week, if necessary, irrespective of inclement weather, to maintain access and the Construction Schedule, and to protect the Work under construction from the effects of Adverse Weather, all at no further cost to the County.

16.3.10. The Contract Time has been determined with consideration given to the average climate weather conditions prevailing in the County in which the Project is located. Contractor shall include the number of adverse weather days within its schedule. These adverse weather days shall be included within the Contract Time.

16.4. Unexcused Delay(s) – Liquidated Damages

16.4.1. Unexcused Delays refer to any delay to the progress of the Work caused by events or factors other than those specifically identified in the “Excusable and Compensable Delay(s)” or the “Excusable and Non-Compensable Delay(s)” sections above. Neither the Contract Price nor the Contract Time shall be adjusted on account of Unexcused Delays.

16.4.2. Contractor and County hereby agree that the exact amount of damages for failure to complete the Work within the time specified is extremely difficult or impossible to determine. If the Work is not completed within the time specified in the Contract Documents, it is understood that the County will suffer damage. It being impractical and unfeasible to determine the amount of actual damage, it is agreed the Contractor shall forfeit and pay to County as fixed and liquidated damages, and not as a penalty, the amount set forth in the Contract Documents for each calendar day of delay in Completion. Contractor and its Surety shall be liable for the amount thereof pursuant to Government Code section 53069.85.

16.4.3. Contractor shall not forfeit or pay liquidated damages for an Excusable Delay or an Excusable and Compensable Delay.

16.5. Float or Slack in the Schedule

Float or slack is the amount of time between the early start date and the late start date, or the early finish date and the late finish date, of any of the activities in the schedule. Float or slack is not for the exclusive use of or benefit of either the County or the Contractor, however it shall be used as necessary to accommodate delays in the progress of the Work which may occur during the course of construction, as determined by the County. Contractor shall not be entitled to an extension of time for any claimed delays to the extent that such delays may be covered by the float.

17. CHANGES IN THE WORK

17.1. No Changes Without Authorization

17.1.1. There shall be no change whatsoever in the Drawings, Specifications, or in the Work without an executed Change Order, a written Unilateral Change Order, or a written Force Account Directive authorized by the County as herein provided.

17.1.2. There shall be no extension of time for performance of the Work without an executed Change Order, a written Unilateral Change Order, or a written Force Account Directive authorized by the County as herein provided.

17.1.3. County shall not be liable for the cost of any extra work or any substitutions, changes, additions, omissions, or deviations from the Drawings and Specifications without an executed Change Order, a written Unilateral Change Order, or a written Force Account Directive authorized by the County as herein provided.

17.1.4. The provisions of the Contract Documents shall apply to all such changes, additions, and omissions with the same effect as if originally embodied in the Drawings and Specifications.

17.1.5. Verbal Order of Change in the Work. Any verbal order, direction, instruction, interpretation, or determination from the County, or the Architect which in the opinion of the Contractor causes any change to the scope of the Work, or otherwise requires an adjustment to the Contract Price or the Contract Time, shall be treated as a Change only if the Contractor gives the County written notice within three (3) Business Days of the order, directions, instructions, interpretation or determination and prior to acting in accordance therewith. Time is of the essence in Contractor's written notice pursuant to the preceding sentence so that the County can promptly investigate and consider alternative measures to address the order, direction, instruction, interpretation or determination giving rise to Contractor's notice. Accordingly, Contractor acknowledges that its failure, for any reason, to give written notice within three (3) Business Days of any verbal order, direction, instruction, interpretation or determination shall be deemed Contractor's waiver of any right to assert or claim any entitlement to an adjustment of the Contract Time or the Contract Price on account of that verbal order, direction, instruction, interpretation or determination. The written notice shall state the date, circumstances, extent of adjustment to the Contract Price or the Contract Time, if any, requested, and the source of the verbal order, directions, instructions, interpretation or determination that the Contractor regards as a Change. Unless the Contractor acts in strict accordance with this procedure, any verbal order, direction, instruction, interpretation or determination shall not be treated as a Change and the Contractor hereby waives any claim for any adjustment to the Contract Price or the Contract Time on account thereof.

17.1.6. The Surety, in executing and providing the Performance Bond and the Payment Bond, shall be deemed to have expressly agreed to any change to the Contract and to any extension of time made by reason thereof.

17.1.7. Contractor shall perform immediately all work that has been authorized by an executed Change Order, a written Unilateral Change Order, or a written Force Account Directive authorized by the County as herein provided. Contractor shall be fully responsible for any and all delays and/or expenses caused by Contractor's failure to expeditiously perform this Work and Contractor's failure or refusal to proceed with that Work may be deemed to be Contractor's default of a material obligation of the Contractor under the Contract Documents.

17.1.8. Should any Change Order result in an increase in the Contract Price, the cost of that Change Order shall be agreed to, in writing, in advance by Contractor and County and be subject to applicable statutory monetary limitations. In the event that Contractor proceeds with any change in Work without an executed Change Order, a written Unilateral Change Order, or a written Force Account Directive authorized by the County as herein provided executed, Contractor waives any claim of additional compensation or time for that additional work.

17.1.9. Contractor understands, acknowledges, and agrees that the reason for County authorization is so that County may have an opportunity to analyze the Work and decide whether the County shall proceed with the Change Order or alter the Project so that a change in Work becomes unnecessary.

17.1.10. In an emergency affecting safety of life or of work or of adjoining property, Contractor, without special instruction or authorization, shall act, at its discretion, to prevent all threatened loss or injury. Any compensation or time claimed by Contractor on account of emergency work shall be determined as indicated herein as a COR .

17.2. Architect Authority

The Architect will have authority to order minor changes in the Work not involving any adjustment in the Contract Price, or an extension of the Contract Time, or a change that is inconsistent with the intent of the Contract Documents. These changes shall be effected by written Change Order, Unilateral Change Order, or by Architect's response(s) to RFI(s).

17.3. Change Orders

17.3.1. A Change Order is a written instrument prepared and issued by the County and signed by the County (as authorized by the County 's governing board), the Contractor, the Architect, and the Construction Manager (if necessary) stating their agreement regarding all of the following.

17.3.1.1. A description of a change in the Work;

17.3.1.2. The amount of the adjustment in the Contract Price, if any; and

17.3.1.3. The extent of the adjustment in the Contract Time, if any.

17.3.2. All Change Orders shall be full payment and final settlement of all rights for direct, indirect and consequential costs, including without limitation, costs of delays or impacts related to, or arising out of, items covered and affected by the Change Order, as well as any adjustments to the Contract Time. Any demand or request for an adjustment to the Contract Time or the Contract Price relating to any Change incorporated into a Change Order not presented by the Contractor for inclusion in the Change Order shall be deemed waived. The Contractor shall execute the Change Order prepared pursuant to the foregoing. After the Change Order has been prepared and forwarded to the Contractor for execution, the Contractor shall not modify or amend the form or content of such Change Order, or any portion thereof.

17.4. Unilateral Change Orders

17.4.1. A Unilateral Change Order is a written order prepared and issued by the County, the Construction Manager, and/or the Architect and signed by the County, directing a change in the Work. The County may as provided by law, by Unilateral Change Order and without invalidating the Contract, order changes in the Work consisting of additions, deletions, or other revisions.

17.4.2. The County may issue a Unilateral Change Order in the absence of agreement on the terms of a Change Order.

17.5. Force Account Directives

17.5.1. When work, for which a definite price has not been agreed upon in advance, is to be paid for on a time-and-material basis, all direct costs necessarily incurred and paid by the Contractor for labor, material, and equipment used in the performance of that Work, shall be subject to the approval of the County and compensation will be determined as set forth herein.

17.5.2. County will issue a Force Account Directive to proceed with the Work on a time-and-material basis, and a not-to-exceed budget will be established by County.

17.5.3. All requirements regarding direct cost for labor, labor burden, material, equipment, and markups on direct costs for overhead and profit described in this section shall apply to Force Account Directives. However, County will only pay for actual costs verified in the field by the County or its authorized representative(s) on a daily basis.

17.5.4. Contractor shall be responsible for all cost related to the administration of Force Account Directive. The markup for overhead and profit for Contractor modifications shall be full compensation to the Contractor to administer Force Account Directive.

17.5.5. Contractor shall notify County or its authorized representative(s) at least twenty-four (24) hours prior to proceeding with any of the force account work. Furthermore, the Contractor shall notify the County when it has consumed eighty percent (80%) of the budget, and shall not exceed the budget unless specifically authorized in writing by the County. Contractor will not be compensated for force account work in the event that Contractor fails to timely notify the County regarding the commencement of force account work, or exceeding the force account budget.

17.5.6. Contractor shall diligently proceed with the work, and on a daily basis, submit a daily time-and-material report on a form supplied by the County no later than 5:00 p.m. each day. The report shall contain a detailed itemization of the daily labor, material, and equipment used on the time-and-material work only. The names of the individuals performing the force account work shall be included on the daily time-and-material reports. The type and model of equipment shall be identified and listed. County will review the information contained in the reports, and sign the reports no later than the next work day, and return a copy of the report to Contractor for its records. County will not sign, nor will Contractor receive compensation for work County cannot verify. Contractor will provide a weekly force account summary indicating the status of each Force Account Directive in terms of percent complete of the not-to-exceed budget and the estimated percent complete of the work.

17.5.7. In the event Contractor and County reach a written agreement on a set cost for the work while the work is proceeding based on a Force Account Directive, the Contractor's signed daily time-and-material reports shall be discontinued and all previously signed reports shall be invalid.

17.6. Price Request

17.6.1. Definition of Price Request. A Price Request ("PR") is a written request prepared by the County requesting the Contractor to submit to the County and the Architect an estimate of the effect of a proposed change in the Work on the Contract Price and the Contract Time.

17.6.2. Scope of Price Request. A Price Request shall contain adequate information, including any necessary Drawings and Specifications, to enable Contractor to provide the cost breakdowns required herein. The Contractor shall not be entitled to any additional compensation for preparing a response to a Price Request, whether ultimately accepted or not.

17.7. Change Order Request

17.7.1. Definition of Change Order Request. A Change Order Request ("COR") is a written request prepared by the Contractor requesting that the County issue a Change Order based upon a proposed change to the Work. A COR shall be submitted by the Contractor to the County within ten (10) days of the event giving rise to the COR. Contractor's failure to submit a COR within ten (10) days of the event giving rise to the COR shall be a complete waiver all rights to additional compensation or time otherwise resulting from the events giving rise to the COR.

17.7.2. Changes in Contract Price. A COR shall include breakdowns pursuant to the revisions herein to

validate any change in Contract Price.

17.7.3. Changes in Time. A COR shall also include any changes in time required to complete the Project. Any additional time requested shall not be the number of days to make the proposed change, but must be based upon the impact to the Construction Schedule as defined in the Contract Documents. If Contractor fails to request a time extension in a COR, then the Contractor is thereafter precluded from requesting time and/or claiming a delay.

17.7.4. Unknown and/or Unforeseen Conditions. If Contractor submits a COR requesting an increase in Contract Price and/or Contract Time that is based at least partially on Contractor's assertion that Contractor has encountered unknown and/or unforeseen condition(s) on the Project, then Contractor shall base the COR on provable information that, beyond a reasonable doubt and to the County's satisfaction, demonstrates that the unknown and/or unforeseen condition(s) were actually unknown and/or unforeseen and that the condition(s) were reasonably unknown and/or unforeseen. If not, the County shall deny the COR and the Contractor shall complete the Project without any increase in Contract Price and/or Contract Time based on that COR.

17.7.5. Time to Submit COR. Contractor shall submit its COR within five (5) days of the date Contractor discovers, or reasonably should discover, the circumstances giving rise to the proposed change order, unless additional time to submit a proposed change order is granted in writing by the County. Time is of the essence in Contractor's written notice pursuant to the preceding sentence so that the County can promptly investigate and consider alternative measures to address the basis for the COR. Accordingly, Contractor acknowledges that its failure, for any reason, to give written notice (with Supporting Documentation to permit the County's review and evaluation) within this time frame shall be deemed Contractor's waiver, release, discharge and relinquishment of any right to assert or claim any entitlement to an adjustment of the Contract Time or the Contract Price on account of the circumstances giving rise to the COR.

17.8. Format for Proposed Change. The following "Format for Proposed Change for Subcontractor Performed Work" and "Format for Proposed Change for Contractor Performed Work" shall be used as applicable by the County and the Contractor (e.g. Change Orders, CORs) to communicate proposed additions and deductions to the Contract, supported by attached documentation.

FORMAT FOR PROPOSED CHANGE FOR SUBCONTRACTOR PERFORMED WORK

	<u>SUBCONTRACTOR PERFORMED WORK</u>	<i>ADD</i>	<i>DEDUCT</i>
(A)	<u>Labor Charge</u> 1. Hours. Attach total itemized hours. 2. Rate. This shall be no more than the Straight-Time Total Hourly Rate as determined by the Department of Industrial Relations ("DIR") for the applicable labor category.		
(B)	<u>Labor Burden & Worker's Compensation Charge</u> 1. This shall be no more than twenty-nine and a half percent (29.5%) of item (A), the Labor Charge. 2. This shall be the total cumulative charge permitted for all Subcontractors or all labor performed by the Subcontractor or Subcontractor's Subcontractor(s) (i.e., all "lower-tier" Subcontractor(s)).		
(C)	<u>Subtotal (A+B)</u>		
(D)	<u>Material Charge</u> Attach itemized quantity and unit cost and invoice(s) from vendor(s).		
(E)	<u>Equipment Charge</u> Attach invoice(s) from supplier(s). All taxes associated with this shall be included in item M below.		
(F)	<u>Subtotal (C+D+E)</u>		
(G)	<u>Subcontractor's Overhead and Profit Charge</u> 1. This shall be no more than ten percent (10%) of item (F). 2. This shall be the total cumulative mark-up permitted for the Subcontractor and Subcontractor's Subcontractor(s) (i.e., all "lower-tier" Subcontractor(s)).		
(H)	<u>Subtotal (F+G)</u>		
(I)	<u>Contractor's Overhead, Profit, Bond and Insurance</u> 1. Contractor shall be entitled to a mark-up for overhead and profit of no more than five and one half percent (5.5%) of Item (F). 2. The mark-up for bonds and insurance shall be no more than two and forty-five hundredths of a percent (2.45%) of item (F), which shall be a cumulative mark-up for bonds, insurance, and Builders Risk Insurance. 3. This shall be the total mark-up permitted for Contractor.		
(J)	<u>Subtotal (H+I)</u>		
(K)	<u>Time</u>	_____ Days	
(L)	<u>Contractor's Home Office Overhead</u>		

	This shall be no more than \$200 times the number of days of Item (K) (i.e., not to exceed \$200/day)		
(M)	<u>Taxes (All Taxes)</u>		
(N)	TOTAL (J+L+M)		

FORMAT FOR PROPOSED CHANGE FOR CONTRACTOR PERFORMED WORK

	CONTRACTOR PERFORMED WORK	ADD	DEDUCT
(A)	<u>Labor Charge</u> 1. Hours. Attach total itemized hours. 2. Rate. This shall be no more than the Straight-Time Total Hourly Rate as determined by the Department of Industrial Relations ("DIR") for the applicable labor category.		
(B)	<u>Labor Burden & Worker's Compensation Charge</u> 1. This shall be no more than twenty-nine and a half percent (29.5%) of Item (A) , the Labor Charge. 2. This shall be the total cumulative charge permitted for all labor performed by Contractor.		
(C)	<u>Subtotal (A+B)</u>		
(D)	<u>Material Charge</u> Attach itemized quantity and unit cost and invoice(s) from vendor(s).		
(E)	<u>Equipment Charge</u> Attach invoice(s) from supplier(s). All taxes associated with this charge shall be included in item K.		
(F)	<u>Subtotal (C+D+E)</u>		
(G)	<u>Contractor's Overhead, Profit, Bond and Insurance</u> 1. Contractor shall be entitled to a mark-up for overhead and profit for no more than five and one half percent (5.5%) of Item (F) . 2. The mark-up for bonds and insurance shall be no more than two and forty-five hundredths of a percent (2.45%) of item (F), which shall be a cumulative mark-up for bonds, insurance, and Builders Risk Insurance. 3. This shall be the total mark-up permitted for Contractor.		
(H)	<u>Subtotal (F+G)</u>		
(I)	<u>Time</u>	_____ Days	
(J)	<u>Contractor's Home Office Overhead</u> This shall be no more than \$200 times the number of days of Item (I) (i.e., not to exceed \$200/day)		
(K)	<u>Taxes (All Taxes)</u>		
(L)	TOTAL (H+J+K)		

17.8.1. All proposed cost requests by Contractor for a change shall include a complete itemized breakdown with the following detail:

17.8.1.1. Labor. Labor breakdown by trade classification, wage rates, and estimated hours. Labor costs shall only include fringe benefits indicated by governing trade organizations. Wages shall not exceed current prevailing wages in the locality for performance of the changes.

17.8.1.1.1. The Contractor's or Subcontractors' labor burden and Workers' Compensation premium shall only be charged as indicated herein. In no event shall Contractor include any other charges than as indicated herein without the prior written approval of the County.

17.8.1.2. Material. Material quantities, and types of products, and transportation costs, if applicable.

17.8.1.3. Equipment. Equipment breakdown by make, type, size, rental rates, equipment hours and transportation costs, if applicable.

17.8.1.3.1. The equipment costs shall not exceed one hundred percent (100%) of the Association of Equipment Distributors (AED) rental rates or Caltrans rates, whichever is less. Hourly, daily, weekly, or monthly rates shall be used, whichever is lower. Hourly rates including operator shall not be used.

17.8.1.3.2. The actual time to be paid for equipment shall be the time that the equipment is in productive operation on the Work under Contract Modification. In computing the hourly rental of equipment, any time less than thirty (30) minutes shall be considered one-half (1/2) hour. No payment will be made for time while equipment is inoperative due to breakdown, or for non-workdays. In addition, the rental time shall not include the time required to move the equipment to and from the Project Site(s). No mobilization or demobilization will be allowed for equipment already on site. If such equipment is not moved by its own power, then loading and transportation costs will be paid in lieu of rental time thereof. However, neither moving time nor loading and transportation costs will be paid if the equipment is used on the Project Site(s) in any other way than upon the work directly related to the Contract Modification.

17.8.1.3.3. Individual pieces of equipment having a replacement value of one thousand dollars (\$1,000) or less shall be considered to be small tools or small equipment, and no payment will be made since the costs of these tools and equipment is included as part of the markup for overhead and profit defined herein.

17.8.1.3.4. Payment to the Contractor for the use of equipment as set forth above shall constitute full compensation to the Contractor for the cost of fuel, power, oil, lubricants, supplies, small equipment, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance, labor (except for equipment operators), and any and all costs to the Contractor incidental to the use of the equipment.

17.8.1.3.5. Should Contractor, or any of its owners, officers, directors or agents, hold any ownership interest in any company, organization, association or corporation from whom rental equipment is secured. Contractor shall immediately notify County of such and the price set for any such rental shall be agreed upon in advance by the Contractor and the County.

17.8.1.4. Overhead and Profit. Markup for overhead and profit, which shall be used to compensate Contractor for all costs for all administration, general conditions, and supervision, including, without limitation:

17.8.1.4.1. All field, field office and home office personnel including, but not limited to,

principals, project managers, superintendents, supervisory foremen, estimators, project engineers, detailers, draftsmen, schedulers, consultants, watchmen, payroll clerks, administrative assistants, labor compliance costs and secretaries.

17.8.1.4.2. All field, field office and home office expenses including, but not limited to, field trailers, parking, storage sheds, office equipment and supplies, telephone service and long distance telephone calls, fax machines, temporary utilities, sanitary facilities and services, janitorial services, small tools and equipment with a cost under \$1000 each, portable scaffolding, blocking, shores, appliances, job vehicles, security and fencing, conformance to regulatory requirements including compliance to safety regulations, safety programs and meetings, cartage, warranties, As-Built Drawings, as well as any related maintenance costs.

17.8.1.4.3. Administrative functions such as, but not limited to, reviewing, coordinating, distributing, processing, posting, recording, estimating, negotiating, expediting, engineering, drawing, detailing, revising shop drawings, carting, cleaning, protecting the work, and other incidental Work related to the change.

17.8.1.4.4. All other costs and taxes required to be paid, but not included under direct costs as defined above including, without limitation, payroll taxes, social security, etc.

17.8.1.4.5. All costs for Contractor's bonds and insurance. Exact percentage of the overall cost of the Contractor's bonds and insurance for the project shall be used.

17.8.1.4.6. Taxes: Federal excise tax shall not be included. County will issue an exemption on request. All Taxes, sales, state, etc. shall not be included within each individual item, but shall be included at the end under item (M) on the form titled "Format for Proposed Change for Subcontractor performed Work and included in item (K) on the form titled "Format for Proposed Change for Contractor Performed Work".

17.8.1.4.7. No matter how many subcontractor tiers there are on a proposed Change Order, the total percentage shall not exceed 20% at the subcontractor level.

17.8.1.5. **Contract Time.** Justification for any adjustment in Contract Time including a schedule analysis identifying critical schedule activities delayed by the request. Contract Time shall be extended or reduced by Change Orders, Unilateral Change Orders, or Force Account Directives for a period of time commensurate with the time reasonably necessary to perform a Change. This time must be requested in writing by the Contractor with the Price Request, PCO, or expressly in writing as part of its documentation for Unilateral Change Orders, or Force Account Directives. The Contractor shall justify any Contract Time extension by submittal of a schedule analysis as required in this Changes section of these General Conditions accurately portraying the impact of the change on the critical path of the Construction Schedule. Changes performed within available float shall not justify an extension to the Contract Time. The County shall make the final determination of the amount of Contract Time to allocate to any Change.

17.9. Change Order Certification

17.9.1. All Change Orders and CORs shall include the following certification by the Contractor. The parties acknowledged that if a Change Order is approved that does not include this language, that Change Order shall be deemed to include this certification language:

The undersigned Contractor approves the foregoing as to the changes, if any, and the Contract Price specified for each item and as to the extension of time allowed, if any, for Project Completion, and agrees to furnish all labor, materials, and service, and perform all work necessary to complete any additional work specified for the consideration stated herein. Submission of sums that have no basis in fact or which Contractor knows are false

are at the sole risk of Contractor and may be a violation of the False Claims Act set forth under Government Code section 12650 et seq. It is understood that the changes herein to the Contract shall only be effective when approved by the governing board of the County. It is expressly understood that the value of the extra Work or changes expressly includes any and all of the Contractor's costs, expenses, field overhead, home office overhead, profit, both direct and indirect, resulting from additional time required on the Project or resulting from delay to the Project. Any costs, expenses, damages, or time extensions not included are deemed waived.

17.10. Determination of Change Order Cost

17.10.1. The amount of the increase or decrease in the Contract Price from a Change Order, if any, shall be determined in one or more of the following ways as applicable to a specific situation and at the County's discretion:

17.10.1.1. County acceptance of a COR;

17.10.1.2. By agreement between County and Contractor.

17.10.1.3. By amounts contained in Contractor's schedule of values, if applicable;

17.10.1.4. By the County, based upon actual and necessary costs incurred by the Contractor as determined by the County on the basis of the Contractor's records. Promptly upon determining the extent of adjustment to the Contract Price, the County shall notify the Contractor in writing of the same; the Contractor shall be deemed to have accepted the County's determination of the amount of adjustment to the Contract Price on account of a Change to the Work unless Contractor shall notify the County, in writing, not more than fifteen (15) days from the date of the County's written notice, of any objection to the County's determination. Failure of the Contractor to timely notify the County of Contractor's objections to the County's determination of the extent of adjustment to the Contract Price shall be deemed Contractor's acceptance of the County's determination and a waiver of any right or basis of the Contractor to thereafter protest or otherwise object to the County's determination. Notwithstanding any objection of the Contractor to the County's determination of the extent of any adjustment to the Contract Price pursuant to this provision, Contractor shall diligently proceed to perform and complete any such Change.

17.10.2. If the County has identified contingency(s) and/or allowance(s) as part of the Contract Documents, then approved Change Order(s) may be paid out of those contingency(s) and/or allowance(s), pursuant to the terms of the Contract Documents and if agreed to by the County.

17.11. Deductive Change Orders

All deductive Change Order(s) must be prepared pursuant to the provisions herein. If Contractor offers a proposed amount for a deductive Change Order(s), Contractor shall include a minimum of five percent (5%) total overhead, profit & general conditions to be deducted with the amount of the work of the Change Order(s). If Subcontractor work is involved, Subcontractors shall also include a minimum of five percent (5%) total overhead, profit & general conditions to be deducted with the amount of its deducted work. Any deviation from this provision shall on be permitted with the County's prior written approval.

17.12. Discounts, Rebates, and Refunds

For purposes of determining the cost, if any, of any change, addition, or omission to the Work hereunder, all trade discounts, rebates, refunds, and all returns from the sale of surplus materials and equipment shall accrue and be credited to the Contractor, and the Contractor shall make provisions so that such discounts, rebates, refunds, and returns may be secured, and the amount thereof shall be allowed as a reduction of the Contractor's cost in determining the actual cost of construction for purposes of any change, addition, or

omission in the Work as provided herein.

17.13. Accounting Records

With respect to portions of the Work performed by Change Orders, Unilateral Change Orders, or Force Account Directives, Contractor shall keep and maintain cost-accounting records satisfactory to the County, which shall be available to the County on the same terms as any other books and records the Contractor is required to maintain pursuant to the Contract Documents.

17.14. Notice Required

If the Contractor desires to make a claim for an increase in the Contract Price, or any extension in the Contract Time for Project Completion, it shall notify the County pursuant to the provisions of the Contract Documents. No claim shall be considered unless made in accordance with the Contract Documents. Contractor shall proceed to execute the Work even though the adjustment may not have been agreed upon. Any change in the Contract Price or extension of the Contract Time resulting from such claim shall be authorized by a Change Order.

17.15. Applicability to Subcontractors

Any requirements under this Article shall be equally applicable to Change Orders, Unilateral Change Orders, or Force Account Directives issued to Subcontractors by the Contractor to the extent as required by the Contract Documents.

17.16. Alteration to Change Order Language

Contractor shall not alter Change Orders or reserve time in Change Orders. Contractor shall execute finalized Change Orders and proceed under the provisions herein with proper notice.

17.17. Failure of Contractor to Execute Change Order

Contractor shall be in default of the Contract if Contractor fails to execute a Change Order when the Contractor agrees with the addition and/or deletion of the Work in that Change Order.

18. REQUESTS FOR INFORMATION

18.1. Any Request for Information ("RFI") shall reference all applicable Contract Document(s), including Specification section(s), detail(s), page number(s), drawing number(s), and sheet number(s), etc. Contractor shall make suggestions and interpretations of the issue raised by each RFI. An RFI cannot modify the Contract Price, Contract Time, or the Contract Documents.

18.2. Contractor shall be liable to the County for all costs incurred by the County associated with the processing, reviewing, evaluating and responding to any RFI, including without limitation, fees of the Architect and any other design consultant to the Architect or the County, that County reasonably determines:

18.2.1. Does not reflect adequate or competent supervision or coordination by the Contractor or any Subcontractor; or

18.2.2. Does not reflect the Contractor's adequate or competent knowledge of the requirements of the Work or the Contract; or

18.2.3. Requests an interpretation or decision of a matter where the information sought is equally available to the Contractor or is not justified for any other reason.

18.3. Prior to submitting the RFI, Contractor shall diligently review the Contract Documents for

information responsive to the RFI, including information incorporated by reference. Contractor should not issue an RFI regarding information contained in or inferable from the Contract Documents, including information incorporated by reference. An RFI is invalid if the RFI response is contained in or inferable from the Contract Documents.

18.4. Contractor shall be responsible for preparing and submitting each RFI so as to not cause delay to the progress of the Work nor to cause any impact to the Contractor's labor productivity. An RFI may be considered untimely if not submitted within Forty-Eight (48) hours of receipt from a Contractor's subcontractor. Untimely submission of any RFI will preclude Contractor from asserting any claims for delay or for labor impact against the County.

18.5. If the Contractor fails to timely notify the County and the Architect in writing of any Conditions encountered and the Contractor proceeds to perform any portion of the Work containing or affected by such Conditions the Contractor shall bear all costs associated with or required to correct, remove, or otherwise remedy any portion of the Work affected thereby without adjustment of the Contract Time or the Contract Price. In requesting information of the County to address and resolve any conditions, the Contractor shall act with promptness in submitting any written request so as to allow the County a reasonable period of time to review, evaluate and respond to any request, taking into account the then current status of the progress and completion of the Work and the actual or potential impact of any conditions upon the completion of the Work within the Contract Time. The Contract Time shall not be subject to adjustment in the event that the Contractor shall fail to timely request information from the County.

19. PAYMENTS

19.1. Contract Price

The Contract Price is stated in the Contract Documents and, including authorized adjustments, is the total amount payable by the County to the Contractor for performance of the Work pursuant to the Contract Documents.

19.2. Applications for Payments During Construction

19.2.1. Procedure for Applications for Payments During Construction

19.2.1.1. Application for Payments During Construction

19.2.1.2. Not before the fifth (5th) day of each calendar month during the progress of the Work, Contractor shall submit to the County and the Architect an itemized Application for Payment for Work completed in accordance with the Schedule of Values. The Contractor shall include in each Application for Payment an itemized list of equipment and materials that are stored off-site and are in the Contractor's possession. Each Application for Payment shall be notarized, if required, and supported by the following or each portion thereof unless waived by the County in writing:

19.2.1.2.1. The amount paid to the date of the Application for Payment to the Contractor, to all its Subcontractors, and all others furnishing labor, material, or equipment for its Contract;

19.2.1.2.2. The amount being requested under the Application for Payment by the Contractor on its own behalf and separately stating the amount requested on behalf of each of the Subcontractors and all others furnishing labor, material, and equipment under the Contract;

19.2.1.2.3. The balance that will be due to each of the entities after payment is made;

19.2.1.2.4. A certification that the As-Built Drawings and annotated Specifications are current;

- 19.2.1.2.5. An Itemized breakdown of Work performed;
- 19.2.1.2.6. An updated and acceptable construction schedule in conformance with the provisions herein;
- 19.2.1.2.7. The additions to and subtractions from the Contract Price and Contract Time;
- 19.2.1.2.8. If retention is withheld, A total of the cumulative retention withheld prior to the current Application for Payment, and that to be withheld under the current Application for Payment (5% of the current Application for Payment);
- 19.2.1.2.9. Verified material invoices, evidence of equipment purchases, rentals, and other support and details of cost as the County may require from time to time;
- 19.2.1.2.10. The percentage of completion of the Contractor's Work by line item;
- 19.2.1.2.11. The Schedule of Values updated from the preceding Application for Payment;
- 19.2.1.2.12. If Contractor includes in the Application for Payments an itemized list of equipment and materials that are stored off-site and are in the Contractor's possession, the Contractor's Application for Payment shall be supported by the following:
 - 19.2.1.2.12.1. Itemized breakdown of equipment and materials that are stored off-site and are in the Contractor's possession for the purpose of requesting partial payment, identifying the serial numbers and exact storage location of each piece of equipment and material;
 - 19.2.1.2.12.2. Verified invoices for equipment and materials that are stored off-site and are in the Contractor's possession;
 - 19.2.1.2.12.3. Original copy of Property of Others Insurance, Employee Theft Protection Insurance Policy or an Employee Theft Protection Bond. These documents shall include for the itemized equipment and materials that are stored off-site and are in the Contractor's possession, certificates and endorsements stating the coverage and stating that the County is a loss payee or obligee, as appropriate;
- 19.2.1.2.13. A duly completed and executed "Conditional Waiver and Release on Progress Payment" compliant with Civil Code section 8132 from each subcontractor of any tier and supplier to be paid from the current payment;
- 19.2.1.2.14. A duly completed and executed "Unconditional Waiver and Release on Progress Payment" compliant with Civil Code section 8134 from each subcontractor of any tier and supplier that was paid from the previous payment from sixty (60) days prior; and
- 19.2.1.2.15. A certification by the Contractor of the following:
 - 19.2.1.2.15.1. The Contractor warrants title to all Work performed as of the date of this payment application. The Contractor further warrants that all Work performed as of the date of this payment application is free and clear of liens, claims, security interests, or encumbrances in favor of the Contractor, Subcontractors, material and equipment suppliers, workers, or other persons or entities making a claim by reason of having provided labor, materials, and equipment relating to the Work, except those of which the County has been informed.

19.2.1.2.16. If requested by the County, a third party, or as required by the California Department of Industrial Relations, all requested or required certified payroll record ("CPR(s)") for each journeyman, apprentice, worker, or other employee employed by the Contractor and/or each Subcontractor in connection with the Work for the period of the Application for Payment.

19.2.1.3. Except as expressly provided for herein, no payments shall be made by the County on account of any item of the Work, including without limitation, materials or equipment that, at the time of the Contractor's submittal of an Application for Payment, has/have not been incorporated into and made a part of the Work.

19.2.2. Prerequisites for Payments During Construction

19.2.2.1. First Payment Request: The following items, if applicable, must be completed before the County will accept and/or process the Contractor's first payment request:

- 19.2.2.1.1. Installation of the Project sign;
- 19.2.2.1.2. Installation of field office;
- 19.2.2.1.3. Installation of temporary facilities and fencing;
- 19.2.2.1.4. Schedule of Values;
- 19.2.2.1.5. Contractor's Construction Schedule;
- 19.2.2.1.6. Schedule of unit prices, if applicable;
- 19.2.2.1.7. Submittal Schedule;
- 19.2.2.1.8. Receipt by Architect of all submittals due as of the date of the payment application;
- 19.2.2.1.9. Copies of necessary permits;
- 19.2.2.1.10. Copies of authorizations and licenses from governing authorities;
- 19.2.2.1.11. Initial progress report;
- 19.2.2.1.12. Surveyor qualifications;
- 19.2.2.1.13. Written acceptance of County's survey of rough grading, if applicable;
- 19.2.2.1.14. List of all Subcontractors, with names, license numbers, telephone numbers, and Scope of Work;
- 19.2.2.1.15. All bonds and insurance endorsements; and

19.2.2.2. **No Waiver of Criteria.** Any payments made to Contractor where criteria set forth herein have not been met shall not constitute a waiver of said criteria by Payment to the Contractor shall not be deemed nor constitute acceptance of defective Work or Work not in conformity with the Contract Documents. Instead, such payment shall be construed as a good faith effort by County to resolve differences so Contractor may pay its Subcontractors and suppliers. Contractor agrees that failure to submit such items may constitute a material breach of the Contract by Contractor and may subject Contractor to termination.

19.3. Payments During Construction

19.3.1. Upon receipt of an Application for Payment, County shall act in accordance with the following:

19.3.1.1. Each Application for Payment shall be reviewed by the County as soon as practicable after receipt for the purpose of determining that the Application for Payment is a proper Application for Payment.

19.3.1.2. Any Application for Payment determined not to be a proper Application for Payment suitable for payment shall be returned to the Contractor as soon as practicable, but not later than seven (7) days, after receipt. An Application for Payment returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the Application for Payment is not proper. The number of days available to the County to make a payment without being subject to any applicable statute regarding prompt payment or interest accrual, shall be reduced by the number of days by which the County exceeds this seven-day return requirement.

19.3.1.3. An Application for Payment shall be considered properly executed if funds are available for each payment request from a Schedule of Value line item in the Application for Payment, and payment is not delayed due to an audit inquiry by a financial officer or auditor of the County, the County, or the State.

19.3.1.4. An Application for Payment shall be considered improperly executed and returned, if payment is requested from a Schedule of Value line item that exceeds the percentage of work performed in that pay period for that scope of work, or that does not have funds available or that have been exhausted for that Schedule of Value line item, or if an Application for Payment includes line items not shown in the Schedules of Values.

19.3.2. The County's review of the Contractor's Application for Payment will be based on the County's and the Architect's observations at the Site and the data comprising the Application for Payment that the Work has progressed to the point indicated and that, to the best of the County's and the Architect's knowledge, information, and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to:

19.3.2.1. Observation of the Work for general conformance with the Contract Documents,

19.3.2.2. Results of subsequent tests and inspections,

19.3.2.3. Minor deviations from the Contract Documents correctable prior to Project Completion, and

19.3.2.4. Specific qualifications expressed by the Architect.

19.3.3. County's approval of each Application for Payment shall be based on Contractor complying with all requirements for a fully complete and valid Application for Payment.

19.3.4. If Contractor includes in its Application for Payment an itemized list of equipment and materials that are stored off-site and are in the Contractor's possession, Contractor shall provide all required supporting documentation.

19.3.5. Payments to Contractor

19.3.5.1. Within thirty (30) days after County approval of the Application for Payment, Contractor shall be paid a sum equal to ninety-five percent (95%) of the value of the Work performed (as verified by Architect, Construction Manager and County's Representative and certified by Contractor) up to

the last day of the previous month, less the aggregate of previous payments and other amounts statutorily or contractually necessary to be withheld, including, without limitation, any item listed as "Reasons to Withhold Payment" herein below. Contractor shall continue to perform and shall complete the Project.

19.3.5.2. The value of the Work completed shall be Contractor's best estimate. No inaccuracy or error in Contractor's estimate shall operate to release the Contractor, or any Surety upon any bond, from damages arising from such Work, or from the County's right to enforce each and every provision of this Contract, and the County shall have the right subsequently to correct any error made in any estimate for payment.

19.3.5.3. County shall withhold five percent (5%) retention from all payments during construction.

19.3.5.4. County may withhold ten percent (10%) retention from all payments during construction pursuant to Public Contract Code section 7201, if the Project is determined to be "substantially complex."

19.3.5.5. The Contractor shall not be entitled to have any payment requests processed, or be entitled to have any payment made for Work performed, so long as any lawful or proper direction given by the County concerning the Work, or any portion thereof, remains incomplete.

19.3.5.6. In accordance with Public Contract Code §20104.50 (only if applicable), in the event that the County shall fail to make any payment during construction within thirty (30) days after receipt of an undisputed and properly submitted Application for Payment, the County shall pay the Contractor interest on the undisputed amount of such Application for Payment equal to the legal rate of interest set forth in California Code of Civil Procedure §685.010(a).

19.3.6. No Waiver

19.3.6.1. No payment by County hereunder shall be interpreted so as to imply that County has inspected, approved, or accepted any part of the Work. Notwithstanding any payment, the County may enforce each and every provision of this Contract. The County may correct or require correction of any error subsequent to any payment.

19.3.7. Warranty of Title

19.3.7.1. If a lien or a claim based on a stop payment notice of any nature should at any time be filed against the Work or any County property, by any entity that has supplied material or services at the request of the Contractor, Contractor and Contractor's Surety shall promptly, on demand by County and at Contractor's and Surety's own expense, take any and all action necessary to cause any such lien or a claim based on a stop payment notice to be released or discharged immediately therefrom.

19.3.7.2. If the Contractor fails to furnish to the County within ten (10) calendar days after demand by the County, satisfactory evidence that a lien or a claim based on a stop payment notice has been so released, discharged, or secured, the County may discharge such indebtedness and deduct the amount required therefor, together with any and all losses, costs, damages, and attorney's fees and expense incurred or suffered by County from any sum payable to Contractor under the Contract.

19.3.8. Decisions to Withhold Payment

19.3.8.1. Reasons to Withhold Payment

The County may withhold payment to the extent reasonably necessary to protect the County if, in the County's opinion, the representations to the County required herein cannot be made. The County may withhold payment to such extent as may be necessary to protect the County from loss because of, but not limited to:

- 19.3.8.1.1. Defective Work not remedied within **FORTY-EIGHT (48)** hours of written notice to Contractor;
- 19.3.8.1.2. Stop payment notices or other liens served upon the County as a result of the Contract;
- 19.3.8.1.3. Liquidated damages assessed against the Contractor
- 19.3.8.1.4. The cost of Project Completion if there exists reasonable doubt that the Work can be completed for the unpaid balance of the Contract Price or by the Contract Time;
- 19.3.8.1.5. Damage to the County or other contractor(s);
- 19.3.8.1.6. Unsatisfactory prosecution of the Work by the Contractor;
- 19.3.8.1.7. Failure to store and properly secure materials;
- 19.3.8.1.8. Failure of the Contractor to submit, on a timely basis, proper, sufficient, and acceptable documentation required by the Contract Documents, including, without limitation, a Construction Schedule, Submittal Schedule, Schedule of Values, Monthly Progress Schedules, Shop Drawings, Product Data and samples, Proposed product lists, executed Change Orders, and/or verified reports;
- 19.3.8.1.9. Failure of the Contractor to submit As-Built Drawings;
- 19.3.8.1.10. Erroneous estimates by the Contractor of the value of the Work performed, or other false statements in an Application for Payment;
- 19.3.8.1.11. Unauthorized deviations from the Contract Documents;
- 19.3.8.1.12. Failure of the Contractor to prosecute the Work in a timely manner in compliance with the milestones within the Construction Schedule, established progress schedules, and/or completion dates;
- 19.3.8.1.13. Failure to maintain and to provide to the DIR and, when requested, to the County, certified payroll records acceptable to the County and the DIR for each journeyman, apprentice, worker, or other employee employed by the Contractor and/or each Subcontractor in connection with the Work for the period of the Application for Payment;
- 19.3.8.1.14. Failure to properly pay prevailing wages as defined in Labor Code section 1720 et seq., and/or failure to comply with any other Labor Code requirements;
- 19.3.8.1.15. Failure to properly maintain or clean up the Site;
- 19.3.8.1.16. Failure to timely indemnify, defend or hold harmless the County;
- 19.3.8.1.17. Any payments due to the County, including but not limited to payments for failed tests, utilities changes, or permits;
- 19.3.8.1.18. Failure to pay Subcontractor(s) or supplier(s) as required by law and by the

Contract Documents;

19.3.8.1.19. Failure to pay any royalty, license or similar fees;

19.3.8.1.20. Failure of the Contractor to submit on a timely basis all Closeout Documentation in a manner and form that is proper, sufficient, and reasonably acceptable to the County, and to not cause a delay in the Completion or approval of the Project; or

19.3.8.1.21. Failure to perform any implementation and/or monitoring required by any SWPPP for the Project and/or the imposition of any penalties or fines imposed therefore against Contractor or County.

19.3.8.1.22. Payment is delayed due to an audit inquiry by the State, the County, or any entity with jurisdiction related to the Project.

19.3.8.1.23. Contractor is otherwise in breach, default, or in substantial violation of any provision of this Contract.

19.3.8.1.24. Extra services for Architect.

19.3.8.1.25. Any other obligation(s) of the County that the County is authorized and/or compelled by law to perform.

19.3.8.2. Reallocation of Withheld Amounts. County may, in its reasonable discretion, apply any withheld amount to pay outstanding claims or obligations as defined herein. In so doing, County shall make such payments on behalf of Contractor only after providing seven (7) days prior written notice to Contractor, requesting the Contractor provide information in response to same. County shall consider all information provided by Contractor in exercising its discretion to pay any such claim or obligation. These payments may be made without prior judicial determination of claim or obligation. County will render Contractor an accounting of funds disbursed on behalf of Contractor.

19.3.8.3. If Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents or fails to perform any provision thereof, County may, after FORTY-EIGHT (48) hours written notice to the Contractor and, without prejudice to any other remedy, make good such deficiencies. The County shall adjust the total Contract Price by reducing the amount thereof by the cost of making good such deficiencies. If County deems it inexpedient to correct Work that is damaged, defective, or not done in accordance with Contract provisions, an equitable reduction in the Contract Price (of at least one hundred twenty-five percent (125%) of the estimated reasonable value of the nonconforming Work) shall be made therefor.

19.3.9. Payment After Cure

When Contractor removes the grounds for declining approval, payment shall be made for amounts withheld because of them. No interest shall be paid on any amounts withheld due to the failure of the Contractor to perform in accordance with the terms and conditions of the Contract Documents.

19.4. Subcontractor Payments

19.4.1. Payments to Subcontractors

No later than seven (7) days after receipt of each Payment, or pursuant to Business and Professions Code section 7108.5 and Public Contract Code section 7107, the Contractor shall pay to each Subcontractor, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to its Sub-subcontractors in a similar

manner.

19.4.2. No Obligation of County for Subcontractor Payment

The County shall have no obligation to pay, or to see to the payment of, money to a Subcontractor except as may otherwise be required by law.

19.4.3. Joint Checks

County shall have the right in its sole discretion, if necessary for the protection of the County, to issue joint checks made payable to the Contractor and Subcontractors and material or equipment suppliers. The joint check payees shall be responsible for the allocation and disbursement of funds included as part of any such joint payment. In no event shall any joint check payment be construed to create any contract between the County and a Subcontractor of any tier, any obligation from the County to such Subcontractor, or rights in such Subcontractor against the County.

20. COMPLETION OF THE WORK

20.1. Completion

20.1.1. The Project may only be accepted by action of the governing board of the County, or it's Designee.

20.1.2. County shall accept the Project and may have a Notice of Completion recorded when Project Completion has been achieved in accordance with the Contract Documents and to the satisfaction of County. For purposes of the payment of Retention, Completion is defined in Public Contract Code section 7107. For purposes of the timely filing of Stop Payment Notices, Completion is defined in California Civil Code section 9200, et seq.

20.1.3. Although there is no "substantial completion" for this Project, the County, at its sole option, may accept the Project to the satisfaction of County, except for minor corrective items, as distinguished from incomplete items.

20.1.4. If Contractor fails to complete all minor corrective items within thirty-five (35) days after the date of the County's acceptance of the Project, County shall withhold from the final payment one hundred fifty percent (150%) of an estimate of the amount sufficient to complete the corrective items, as determined by County, until the item(s) are completed.

20.1.5. At the end of the thirty-five (35) day period, if there are any items remaining to be corrected, County may elect to proceed as provided herein related to adjustments to Contract Price, and/or County's right to perform the Work of the Contractor.

20.2. Closeout Procedures

20.2.1. In addition to the closeout procedures indicated herein, Contractor shall comply with all the closeout requirements, procedures, and actions as indicated in all Contract Documents.

20.2.2. Punch List

The Contractor shall provide written notification to the County, Construction Manager and the Architect when Contractor considers the Work complete. Upon notification, County and/or Construction Manager and Architect will prepare a list of minor items to be completed or corrected ("Punch List"). The Contractor and/or its Subcontractors shall proceed promptly to complete and correct items on the Punch List. Failure to include an item on Punch List does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

20.2.3. Closeout Requirements

20.2.3.1. Utility Connections

Buildings shall be connected to water, gas, sewer, and electric services, complete and ready for use. Service connections shall be made and existing services reconnected.

20.2.3.2. As-Built Drawings

20.2.3.2.1. Contractor shall provide an exact, final, complete set of "as-built" of the Work upon Project Completion as indicated in the Contract Documents ("As-Built Drawings"). When completed, Contractor shall deliver corrected plans and diskette/CD/other data storage device acceptable to County with AutoCAD file to the County.

20.2.3.2.2. Contractor is liable and responsible for any and all inaccuracies in As-Built Drawings, even if inaccuracies become evident at a future date.

20.2.3.3. Closeout Documentation: Contractor shall provide all Closeout Documentation, which shall include the following, without limitation:

20.2.3.3.1. A full set of final As-Built Drawings, as further defined herein.

20.2.3.3.2. All Operations & Maintenance Manuals and information, as further defined herein.

20.2.3.3.3. All Warranties, as further defined herein.

20.3. Final Inspection

20.3.1. Contractor shall comply with Punch List procedures as provided herein and in all the Contract Documents, and maintain the presence of its County-approved project superintendent and project manager until the Punch List is complete to ensure proper and timely completion of the Punch List. Under no circumstances shall Contractor demobilize its forces prior to completion of the Punch List. Upon receipt of Contractor's written notice that all of the Punch List items have been fully completed and the Work is ready for final inspection and acceptance, Architect, Construction Manager, County's Representative, and local authority having jurisdiction (if necessary) will inspect the Work and shall submit to Contractor and County a final inspection report noting the Work, if any, required in order to complete in accordance with the Contract Documents. Absent unusual circumstances, this report shall consist of the Punch List items not yet satisfactorily completed.

20.3.2. Upon Contractor's completion of all items on the Punch List and any other uncompleted portions of the Work, the Contractor shall notify the County, the Architect and the Construction Manager, who shall again inspect such Work. If the Architect, County's Representative and the Construction Manager find the Work complete and acceptable under the Contract Documents, the Architect will notify Contractor, who shall then jointly submit to the Architect and the County its final Application for Payment.

20.3.3. Final Inspection Requirements

20.3.3.1. Before calling for final inspection, Contractor shall determine that the following have been performed:

20.3.3.1.1. The Work has been completed.

20.3.3.1.2. All life safety items are completed and in working order.

- 20.3.3.1.3. Mechanical and electrical Work are complete and tested, fixtures are in place, connected, and ready for tryout.
- 20.3.3.1.4. Electrical circuits scheduled in panels and disconnect switches labeled.
- 20.3.3.1.5. Painting and special finishes complete.
- 20.3.3.1.6. Doors complete with hardware, cleaned of protective film, relieved of sticking or binding, and in working order.
- 20.3.3.1.7. Tops and bottoms of doors sealed.
- 20.3.3.1.8. Floors waxed and polished as specified.
- 20.3.3.1.9. Broken glass replaced and glass cleaned.
- 20.3.3.1.10. Grounds cleared of Contractor's equipment, raked clean of debris, and trash removed from Site.
- 20.3.3.1.11. Work cleaned, free of stains, scratches, and other foreign matter, of damaged and broken material replaced.
- 20.3.3.1.12. Finished and decorative work shall have marks, dirt, and superfluous labels removed.
- 20.3.3.1.13. Irrigation system, including all pumps, sprinklers, controller, etc., have been completed, adjusted and are fully operational.
- 20.3.3.1.14. Final cleanup, as provided herein.

20.4. Costs of Multiple Inspections

More than two (2) requests of the County to make a final inspection shall be considered an additional service of County, Architect, and Construction Manager, and all subsequent costs will be invoiced to Contractor and if funds are available, withheld from remaining payments.

20.5. Partial Occupancy or Use Prior to Completion

County's Rights to Occupancy. The County may occupy or use any completed or partially completed portion of the Project at any stage. Neither the County's Final Acceptance, the making of Final Payment, nor the use or occupancy of the Project, in whole or in part, by County shall constitute acceptance of the Project not in accordance with the Contract Documents nor relieve the Contractor or the Contractor's Performance Bond Surety from liability with respect to any warranties or responsibility for faulty or defective Work or materials, equipment and workmanship incorporated therein. The County and the Contractor shall agree in writing to the responsibilities assigned to each of them for payments, security, maintenance, heat, utilities, damage to the Project, insurance, the period for correction of the Work, and the commencement of warranties required by the Contract Documents. Any dispute as to responsibilities shall be resolved pursuant to the Claims provisions herein, with the added provision that during the dispute process, the County shall have the right to occupy or use any portion of the Project that it needs or desires to use.

20.6. Inspection Prior to Occupancy or Use

Immediately prior to partial occupancy or use, the County, the Contractor, and the Architect shall jointly inspect the area to be occupied or portion of the Project to be used in order to determine and record the

condition of the Work.

20.7. No Waiver

Unless otherwise agreed upon, partial or entire occupancy or use of a portion or portions of the Project shall not in and of itself constitute beneficial occupancy or acceptance of the Project not complying with the requirements of the Contract Documents.

21. FINAL PAYMENT

21.1. Final Payment

Upon receipt and approval of a valid and final Application for Payment, the Architect may issue a final Certificate of Payment. The County shall thereupon jointly inspect the Work and either accept the Project as complete or notify the Architect and the Contractor in writing of reasons why the Project is not complete. Upon acceptance of the Work of the Contractor as having reached Completion to the satisfaction of the County (that, absent unusual circumstances, will occur when the Punch List items have been satisfactorily completed), the County may record a Notice of Completion with the County Recorder, and the Contractor shall, upon receipt of final Payment from the County, pay the amounts due Subcontractors.

21.2. Prerequisites for Final Payment. The following conditions must be fulfilled prior to Final Payment:

21.2.1. A full and final waiver or release of all stop payment notices in connection with the Work shall be submitted by Contractor, including a release of stop payment notice in recordable form, together with (to the extent permitted by law) a copy of the full and final release of all stop payment notice rights.

21.2.2. A duly completed and executed "Conditional Waiver and Release on Final Payment" compliant with Civil Code section 8136 from each subcontractor of any tier and supplier to be paid from the current payment;

21.2.3. A duly completed and executed "Unconditional Waiver and Release upon Final Payment" compliant with Civil Code section 8138 from each subcontractor of any tier and supplier that was paid from the previous payment; and

21.2.4. The Contractor shall have made all corrections to the Work that are required to remedy any defects therein, to obtain compliance with the Contract Documents or any requirements of applicable codes and ordinances, or to fulfill any of the orders or directions of County required under the Contract Documents.

21.2.5. Each Subcontractor shall have delivered to the Contractor all written guarantees, warranties, applications, and bonds required by the Contract Documents for its portion of the Work.

21.2.6. Contractor must have completed all requirements set forth under "Closeout Procedures," Including, without limitation, an approved set of complete As-Built Drawings.

21.2.7. Architect shall have issued its written approval that final payment can be made.

21.2.8. The Contractor shall have delivered to the County all manuals and materials required by the Contract Documents.

21.2.9. The Contractor shall have completed final clean up as provided herein.

21.3. Retention

21.3.1. The retention, less any amounts disputed by the County or that the County has the right to withhold pursuant to provisions in the Contract Documents, shall be paid as follows:

- 21.3.1.1. After approval by the County of the Architect's Certificate of Payment,
- 21.3.1.2. After the satisfaction of the conditions set forth herein, and
- 21.3.1.3. Within sixty (60) days following Project Completion pursuant to Public Contract Code section 7107.
- 21.3.1.4. No earlier than thirty-five (35) days of the recording of the Notice of Completion by County, if a Notice of Completion is recorded by the County.

21.3.2. No interest shall be paid on any amounts withheld due to a failure of the Contractor to perform, in accordance with the terms and conditions of the Contract Documents.

21.4. Claims Asserted After Final Payment. Any lien, stop payment notice or other claim filed or asserted after the Contractor's acceptance of the Final Payment by any Subcontractor, of any tier, laborer, Material Supplier or others in connection with or for Work performed under the Contract Documents shall be the sole and exclusive responsibility of the Contractor pursuant to the indemnification obligations of the Contract Documents. In the event any lien, stop payment notice or other claim of any Subcontractor, Laborer, Material Supplier or others performing Work under the Contract Documents remain unsatisfied after Final Payment is made, Contractor shall refund to County all monies that the County may pay or be compelled to pay in discharging any lien, stop payment notice or other claim, including, without limitation all costs and reasonable attorneys' fees incurred by County in connection therewith.

22. UNCOVERING WORK, CORRECTION OF WORK AND RIGHT TO TAKEOVER WORK

22.1. Uncovering Work. If a portion of the Work is covered without Inspector or Architect approval or not in compliance with the Contract Documents, it must, if required in writing by the County, the Project Inspector, or the Architect, be uncovered for the Project Inspector's or the Architect's observation and be replaced at the Contractor's expense without change in the Contract Price or Contract Time.

22.2. Rejection of Work. Prior to the County's Acceptance of the Work, any Work or materials or equipment forming a part of the Work or incorporated into the Work that is defective or not in conformity with the Contract Documents may be rejected by the County, the Architect or the Project Inspector and the Contractor shall correct all rejected Work without any adjustment to the Contract Price or the Contract Time, even if the Work, materials or equipment have been previously inspected by the Architect or the Project Inspector or even if they failed to observe the defective or non-conforming Work, materials or equipment.

22.3. Nonconforming Work

22.3.1. Contractor shall promptly remove from Premises all Work identified by County as failing to conform to the Contract Documents whether incorporated or not. Contractor shall promptly replace and re-execute its own Work to comply with the Contract Documents without additional expense to the County and shall bear the expense of making good all work of other contractors destroyed or damaged by any removal or replacement pursuant hereto and/or any delays to the County or other contractors caused thereby.

22.3.2. If Contractor does not remove Work that County has identified as failing to conform to the Contract Documents within a reasonable time, not to exceed FORTY-EIGHT (48) hours, County may remove it and may store any material at Contractor's expense. If Contractor does not pay expense(s) of that removal within ten (10) days' time thereafter, County may, upon ten (10) days' written notice, sell any material at auction or at private sale and shall deduct all costs and expenses incurred by the County and/or County may withhold those amounts from payment(s) to Contractor.

22.4. Correction of Work

22.4.1. Correction of Rejected Work

Pursuant to the notice provisions herein, the Contractor shall promptly correct the Work rejected by the County, the Architect, or the Project Inspector as failing to conform to the requirements of the Contract Documents, whether observed before or after Project Completion and whether or not fabricated, installed, or completed. The Contractor shall bear costs of correcting the rejected Work, including additional testing, inspections, and compensation for the Inspector's or the Architect's services and expenses made necessary thereby.

22.4.2. One-Year Warranty Corrections

If, within one (1) year after the date of Project Completion or a designated portion thereof, or after the date for commencement of warranties established hereunder, or by the terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the County to do so. This period of one (1) year shall be extended with respect to portions of the Work first performed after Project Completion by the period of time between Project Completion and the actual performance of the Work. This obligation hereunder shall survive acceptance of the Work under the Contract and termination of the Contract. The County shall give such notice promptly after discovery of the condition.

22.5. County's Right to Takeover Work

22.5.1. If the Contractor should neglect to prosecute the Work properly or fail to perform any provisions of this Contract, the County, after **FORTY-EIGHT (48)** hours written notice to the Contractor, may, without prejudice to any other remedy it may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the Contractor.

22.5.2. If it is found at any time, before or after Project Completion, that Contractor has varied from the Drawings and/or Specifications, including, but not limited to, variation in material, quality, form, or finish, or in the amount or value of the materials and labor used, County may require at its option:

22.5.2.1. That all such improper Work be removed, remade or replaced, and all work disturbed by these changes be made good by Contractor at no additional cost to the County;

22.5.2.2. That the County deduct from any amount due Contractor the sum of money equivalent to the difference in value between the work performed and that called for by the Drawings and Specifications; or

22.5.2.3. That the County exercise any other remedy it may have at law or under the Contract Documents, including but not limited to the County hiring its own forces or another contractor to replace the Contractor's nonconforming Work, in which case the County shall either issue a deductive Change Order, a Unilateral Change Order, or invoice the Contractor for the cost of that work. Contractor shall pay any invoices within thirty (30) days of receipt of same or County may withhold those amounts from payment(s) to Contractor.

22.5.3. Acceptance of Defective or Non-Conforming Work. The County may, in its sole and exclusive discretion, elect to accept Work that is defective or that is not in accordance with the requirements of the Contract Documents, instead of requiring its removal and correction, in which case the Contract Price shall be reduced as appropriate and equitable.

23. TERMINATION AND SUSPENSION AND SCOPE REDUCTION

23.1. County's Right to Terminate Contractor for Contractor's Default

23.1.1. Default. The Contractor shall be considered in default of its Contract and that default will be considered as cause for the County to terminate the Contract for any of the following reasons, if the Contractor:

- 23.1.1.1. Fails to perform the work or fails to provide sufficient workers, equipment and/or materials to assure Completion of Work in accordance with the terms of the Contract, or
- 23.1.1.2. Performs the Work unsuitably or neglects or refuses to remove materials or to sufficiently correct Work that the County rejects as unacceptable and unsuitable, or
- 23.1.1.3. Discontinues the execution of the Work, or
- 23.1.1.4. Fails to resume Work that has been discontinued within a reasonable time after notice to do so, or
- 23.1.1.5. Becomes insolvent or is declared bankrupt, or commits any act of bankruptcy or insolvency, or
- 23.1.1.6. Allows any final judgment to stand against the Contractor unsatisfied for a period of 10 days, or
- 23.1.1.7. Makes an assignment for the benefit of creditors, or
- 23.1.1.8. For any other cause whatsoever, fails to carry on the Work in an acceptable manner.

23.1.2. Notification of Termination and Cure

23.1.2.1. Should the County consider the Contractor in default of the contract for any reason above, the County shall immediately give written notice to the Contractor and the Contractor's surety as to the reasons for considering the Contractor in default and the County's intentions to terminate the Contract.

23.1.2.2. If the Contractor or surety, within a period of 10 days after such notice, does not proceed in accordance therewith, then the County will, upon written notification to the Contractor, have full power and authority without violating the Contract, to immediately or soon thereafter take the execution of the work out of the hands of the Contractor. The County may appropriate or use any or all materials and equipment that have been mobilized for use in the Work and are acceptable and may enter into an agreement for the completion of the Project, or use other methods that are required in the best interests of the County for the Completion of the Project.

23.1.3. Effect of Termination. All costs and charges incurred by the County, together with the cost of completing the work under contract, will be deducted from any monies due or which may become due the Contractor. If such expense exceeds the sum which would have been payable under the contract, then the Contractor and the surety shall be liable and shall pay to the County the amount of such excess.

23.1.4. Assignment and Assumption of Subcontracts. County shall have the right (but shall have no obligation) to assume and/or assign to a general contractor or construction manager or other third party who is qualified and has sufficient resources to complete the Work, the rights of the Contractor under its subcontracts with any or all Subcontractors. In the event of an assumption or assignment by the County, no Subcontractor shall have any claim against the County or third party for Work performed by Subcontractor or other matters arising prior to termination of the Contract. The County or any third

party, as the case may be, shall be liable only for obligations to the Subcontractor arising after assumption or assignment. Should the County so elect, the Contractor shall execute and deliver all documents and take all steps, including the legal assignment of its contractual rights, as the County may require, for the purpose of fully vesting in the County the rights and benefits of it Subcontractor under Subcontracts or other obligations or commitments. All payments due the Contractor hereunder shall be subject to a right of offset by the County for expenses and damages suffered by the County as a result of any default, acts, or omissions of the Contractor. Contractor must include this assignment provision in all of its contracts with its Subcontractors.

23.1.4.1. The foregoing provisions are in addition to and not in limitation of any other rights or remedies available to County.

23.2. Emergency Termination of Public Contracts Act of 1949

23.2.1. The Contract is subject to termination as provided by sections 4410 and 4411 of the Government Code of the State of California, being a portion of the Emergency Termination of Public Contracts Act of 1949.

23.2.1.1. Section 4410 of the Government Code states:

In the event a national emergency occurs, and public work, being performed by contract, is stopped, directly or indirectly, because of the freezing or diversion of materials, equipment or labor, as the result of an order or a proclamation of the President of the United States, or of an order of any federal authority, and the circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of the work, then the public agency and the contractor may, by written agreement, terminate said contract.

23.2.1.2. Section 4411 of the Government Code states:

Such an agreement shall include the terms and conditions of the termination of the contract and provision for the payment of compensation or money, if any, which either party shall pay to the other or any other person, under the facts and circumstances in the case.

23.2.1.3. Compensation to the Contractor shall be determined at the sole discretion of County on the basis of the reasonable value of the Work done, including preparatory work. As an exception to the foregoing and at the County's discretion, in the case of any fully completed separate item or portion of the Work for which there is a separate previously submitted unit price or item on the accepted Schedule of Values, that price shall control. County, in its sole discretion, may adopt the Contract Price as the reasonable value of the Work performed or any portion thereof.

23.3. Termination of Contractor for Convenience

23.3.1. County in its sole discretion may terminate the Contract upon three (3) days written notice to the Contractor. Under a termination for convenience, the County retains the right to all the options available to the County if there is a termination for cause. In case of a termination for convenience, Contractor shall have no claims against the County except:

23.3.1.1. The actual cost for labor, materials, and services performed that is unpaid and can be documented through timesheets, invoices, receipts, or otherwise, and

23.3.1.2. Reasonable and substantiated Claims, costs and damages incurred in settlement of terminated contracts with Subcontractors or suppliers; and

23.3.1.3. Reasonable and substantiated expenses to the Contractor directly caused by County's termination.

23.3.2. County will not pay Contractor for loss of anticipated profits or revenue or other economic loss arising out of or resulting from the County's termination.

23.3.3. Upon County's termination herein, Contractor shall proceed with the following obligations regardless of any delay in determining or adjusting amounts due to Contractors:

23.3.3.1. Contractor must immediately discontinue Work as specified in the written notice.

23.3.3.2. Terminate all subcontracts to the extent they relate to the Work terminated under the notice.

23.3.3.3. Discontinue orders for materials and services except as directed by the written notice.

23.3.3.4. Deliver to the County all fabricated and partially fabricated parts, completed and partially completed Work, supplies, equipment and materials acquired prior to termination of the Work, and as directed in the written notice.

23.3.3.5. Complete performance of the Work not terminated by the notice.

23.3.3.6. Take action as directed by the County to protect and preserve property and Work related to the Project that County will take possession.

23.4. Suspension of Work

23.4.1. County may, without cause, order Contractor in writing to suspend, delay or interrupt the Project in whole or in part for such period of time as County may determine. When the County resumes the Project, the Parties will attempt to negotiate an adjustment in the Contract Price for increases or decreases in the cost of performance of the Project caused by suspense, delay or interruption. If the parties cannot agree on an adjusted Contract Price, the County may terminate the Contract as permitted herein.

23.4.2. In the event the County shall order suspension of the Work, an adjustment shall be made to the Contract Price for increases in the direct cost of performance of the Work of the Contract Documents, actually caused by suspension, delay or interruption ordered by the County; provided however that no adjustment of the Contract Price shall be made to the extent: (i) that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible under the Contract Documents; or (ii) that an equitable adjustment is made or denied under another provision of the Contract Documents. The foregoing notwithstanding, any adjustment of the Contract Price shall not include any adjustment to increase the Contractor's overhead, general administrative costs or profit, all of which will remain as reflected in the Schedule of Values submitted by the Contractor pursuant to the Contract Documents. In the event of the County's suspension of the Work, the Contract Time shall be equitably adjusted.

23.4.3. When the County resumes the Project, the Parties will attempt to negotiate an adjustment in the Contract Price for increases or decreases in the cost of performance of the Project caused by suspense, delay or interruption. If the Parties cannot agree on an adjusted Contract Price, the County may terminate the Contract as permitted herein.

23.5. Scope Reduction

23.5.1. In cases of suspension, partial or complete termination, or at the discretion of the County, the County reserves the right to unilaterally approve a deductive Change Order to reduce scope of work or perform work with other forces or its own forces.

23.5.2. Nothing contained herein shall be deemed a waiver by the County of any rights that it may have to bring a separate action with respect to any action by Contractor hereunder or under any other agreement to recover the costs and expenses associated with that action.

24. CLAIMS RESOLUTION

24.1. Exclusive Remedy.

24.1.1. Compliance with the claim resolution process and timelines described in this Claims Resolution section as well as the notice provisions of the Contract are express conditions precedent to Contractor's right to commence litigation or arbitration, file a claim under the California Government Code, or commence any other legal action related to the Project ("Claims Resolution Process").

24.1.2. Contractor acknowledges that its failure, for any reason, to provide written notice and all required supporting documentation to permit the County's review and evaluation within the time frame required by this Claims Resolution Process, shall be deemed Contractor's waiver, release, discharge and relinquishment of any right to assert, request, or demand any entitlement to an adjustment of the Contract Time or the contract Price on account of any instruction, request, drawings, specifications, action, condition, omission, default or other situation.

24.1.3. To the extent any provision(s) of this Claims Resolution Process conflict with or otherwise impair the timeframes and procedures of Public Contract Code section 9204, the provisions of Section 9204 shall control. If provisions of this Claims Resolution Process are supplementary and/or in addition to the requirements of Section 9204, but do not conflict with or otherwise impair the timeframes and procedures of Section 9204, the provisions of this Claims Resolution Process and the Contract shall control.

24.2. Performance during Claim Resolution Process.

The Contractor shall diligently proceed with Work on the Project at the same time that Claims are addressed under the Claims Resolution Process. It is the intent of County to resolve Claims with the Contractor as close to the events giving rise to the Claims as possible, and to avoid stale or late Claims and the late documenting of Claims. Contractor's failure to diligently proceed in accordance with the County's instructions or the Contract terms will be considered a material breach of the Contract and a waiver of Contractor's rights under this Contract.

24.3. Waiver.

If Contractor fails to timely submit any written notices required under the terms of the Contract or in this Claims Resolution section, Contractor waives and releases its rights regarding further review of its Claim, unless Contractor and County mutually agree in writing to other time limits.

24.4. Intention.

The Claims Resolution Process required herein is intended to provide a concise mechanism for resolving Claims as they arise during the Project, while requiring accurate documentation related to contested issues as to those Claims that are not contemporaneously resolved.

24.5. Other Provisions.

If portions of the Contract, other than this Claims Resolution Process, establish a specific process regarding a specific subject, then that process shall govern and control the resolutions of any disagreements thereunder. Otherwise, the provisions in this Claims Resolution Process shall control the resolution of all Claims.

24.6. Claim Presentation

24.6.1. Claim: A claim is a written demand by Contractor (or by Contractor on behalf of a Subcontractor) that the Contractor must submit by registered mail or certified mail return receipt requested for:

24.6.1.1. An extension to the Contract Time, including relief from damages or penalties assessed by the County for delay;

24.6.1.2. Payment of money or damages arising from work done by, or on behalf of, the Contractor pursuant to the Contract and payment that is not otherwise expressly provided for in the Contract Documents or the Contractor is not otherwise entitled; or

24.6.1.3. Payment that is disputed by the County.

24.6.2. A COR may be a Claim, but the Parties agree that a COR shall only be a Claim if:

24.6.2.1. The County states in writing that it disagrees with the terms of a COR and directs the Contractor to utilize the Claim Resolution Process, or

24.6.2.2. The County rejects in whole or in part a COR and the Contractor states in writing that it is utilizing the Claim Resolution Process for the portion of the COR that the County rejected.

24.7. Subcontractors.

24.7.1. Public Contract Code section 9204(d)(5) states that the Contractor may present to the County a Claim on behalf of a Subcontractor or lower tier Subcontractor. A Subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier Subcontractor, that the Contractor present a claim for Work which was performed by the Subcontractor or by a lower tier Subcontractor on behalf of the Subcontractor. The Subcontractor requesting that the Claim be presented to the County shall furnish reasonable documentation to support the Claim. Within 45 days of receipt of this written request, the Contractor shall notify the Subcontractor in writing as to whether the Contractor presented the claim to the County and, if the Contractor did not present the Claim, provide the Subcontractor with a statement of the reasons for not having done so.

24.7.2. Contractor is responsible for providing this Claims Resolution Process to its Subcontractors and for ensuring that all Subcontractors or others who may assert Claims by and through Subcontractors and/or the Contractor are informed of this Claims Resolution Process. No Claim submitted by any party that fails to follow the provisions of this Claims Resolution Process will be considered. Contractor shall indemnify, keep and hold harmless the County and its consultants, against all suits, claims, damages, losses, and expenses, including but not limited to attorney's fees, caused by, arising out of, resulting from, or incidental to, the failure to provide this Claims Resolution Process to its Subcontractors or others who may assert Claims by and through Subcontractors and/or the Contractor.

24.7.3. Contractor Must Timely Identify, Present and Document Any Claim

24.7.3.1. Every Claim shall be stated with specificity in writing and signed by Contractor under penalty of perjury and presented to the County within ten (10) calendar days from the date Contractor discovers or reasonably should discover, that an act, error or omission of County, its agents or employees, or action, condition or other situation has occurred that may entitle Contractor to make a Claim. This shall include the Contractor's actual or constructive knowledge of any instruction, request, drawings, specifications, action, condition, omission, default or other situation for which the contractor believes there should an adjustment of the Contract Price or Contract Time. Contractor shall provide this writing even if Contractor has not yet been damaged, delayed, or incurred extra cost when Contractor discovers, or reasonably should discover, the act, error, omission, action, condition or situation giving rise to the incidents giving rise to the Claim. The writing shall:

24.7.3.1.1. Identify all of the issues, events, conditions, circumstances and/or causes giving rise to the Claim;

24.7.3.1.2. Identify all pertinent dates and/or durations and all actual and/or anticipated effects on the Contract Price, milestones and/or Contract Time adjustments; and

24.7.3.1.3. Identify in detail line-item costs if the Claim seeks money.

24.7.3.1.4. If the Claim involves extra work, a detailed cost breakdown of the amounts the Contractor is seeking, including actual cost records (including without limitation, payroll records, material and rental invoices and the like) demonstrating that those costs have actually been incurred. To the extent costs have not yet been incurred at the time the Claim is submitted, actual cost records must be submitted on a current basis not less than once a week during any periods costs are incurred. A cost record will be considered current if submitted within seven (7) days of the date the cost reflected in the record is incurred. At the request of County, extra costs may be subject to further verification procedures (such as having an inspector verify the performance of alleged extra work on a daily basis).

24.7.3.1.5. If the Claim involves an error or omission in the Contract Documents:

24.7.3.1.5.1. An affirmative representation under penalty of perjury by Contractor and any affected Subcontractors and suppliers that the error or omission was not discovered prior to submitting a proposal for the Work, and

24.7.3.1.5.2. A detailed statement demonstrating that the error or omission reasonably should not have been discovered, by Contractor, its Subcontractors and suppliers, prior to submitting a proposal for the Work.

24.7.3.1.6. Contractor shall not be entitled to compensation for escalation of materials costs unless Contractor demonstrates to the satisfaction of the County that such cost escalation is the result of unusual, unforeseeable market conditions, not the fault of the Contractor, and were not reasonably foreseeable at the time of the award of the Contract. Contractor shall provide evidence to County of the costs included in the Contract for those materials and that those costs were reasonable at the time and that Contractor timely ordered the materials at issue.

24.7.3.2. The writing shall be accompanied by all documents substantiating Contractor's position regarding the Claim.

24.7.3.3. A Claim that asserts an effect on any schedule milestones and/or Contract Time shall include all pertinent scheduling data demonstrating the impact(s) on the critical path(s), milestone(s) and/or Contract Time.

24.7.4. Certification. Each copy of the Claim Documentation shall be certified by a responsible officer of the Contractor in accordance with the requirements of the Contract Documents. This certification shall be under penalty of perjury and must include the following language immediately above or before the Contractor's signature: ***"I declare under penalty of perjury under the laws of the State of California that the information provided and statements made in this Claim are true and correct, substantiated and of merit."*** The Contractor acknowledges that this requirement is not a mere formality but is intended to ensure that the Contractor only submits Claims that it believes are true and correct, substantiated and have merit. Should Contractor fail to submit the foregoing written statement signed under penalty of perjury, Contractor waives and releases its Claim, including all rights and remedies in connection therewith. This certification must include a certification of any portion of the Claim from Subcontractor(s) or others who are asserting Claims by and through Subcontractors and/or the Contractor.

24.7.5. County's Written Statement/Decision on Claim. The County shall issue a written statement/decision regarding the Claim to the Contractor within forty-five (45) days of receipt of the written Claim from the Contractor, or three (3) days after the County's first regular governing board meeting after that 45-day period if the County's governing board does not meet within that first 45-day period. If the County fails to timely provide a written statement/decision regarding the Claim, the Claim shall be deemed rejected in its entirety.

24.7.6. Contractor Must Demand an Informal Meet and Confer Conference if Contractor Pursues Any Claim

24.7.6.1. FAILURE OF A CONTRACTOR TO TIMELY DEMAND A MEET AND CONFER CONFERENCE IS A WAIVER OF ITS RIGHT TO PURSUE ALL OR A PORTION OF ITS CLAIM.

24.7.6.2. Where There Is No Agreement: If there is no agreement between Contractor and the County on a Claim, then within ten (10) calendar days of the date of the County's written statement/decision in response to a Claim or COR, if Contractor pursues that Claim, then Contractor must demand, by **registered mail or certified mail return receipt requested**, a meet and confer conference with County staff. A meet and confer conference with County staff shall be a condition precedent to Contractor seeking any further relief, including a mediation as indicated below.

24.7.6.3. Where There Is Partial Agreement: If Contractor and the County partially agree on a Claim but do not reach complete agreement, then the Parties shall complete a Change Order, if applicable, for the issues and/or amounts agreed to. For those issues not agreed to, if Contractor pursues those issues from that Claim, then Contractor must demand, by **registered mail or certified mail return receipt requested**, a meet and confer conference with County staff regarding those issues. A meet and confer conference with County staff shall be a condition precedent to Contractor seeking any further relief, including a mediation as indicated below, in connection with the County's rejection.

24.7.6.4. Meet and Confer Conference. County and Contractor shall schedule the meet and confer conference as soon as reasonably possible after Contractor's written demand for a meet and confer conference, but in no case later than thirty (30) days after Contractor's demand.

24.7.6.5. County's Written Decision. Within ten (10) Business Days of the meet and confer conference, the County shall issue a written decision. If the County fails to timely provide a written statement/decision after the meet and confer conference, all Claim issues that were part of the meet and confer conference shall be deemed rejected in their entirety.

24.7.6.5.1. If the County's decision completely resolves the Claim, then the Parties shall complete a Change Order, if applicable, for the issues and/or amounts agreed to.

24.7.6.5.2. If the County rejects the Contractor's Claim in whole or in part or does not issue a timely written response, then the parties shall mediate the remaining issues of the Claim.

24.7.6.5.3. Contractor's costs incurred in seeking relief for Claims are not recoverable from County.

24.7.7. Mediation.

24.7.7.1. At the County's sole discretion, this mediation may be a multiple-party mediation with the Architect, the Construction Manager, the Inspector, and/or other County consultants.

24.7.7.2. The County and Contractor shall mutually agree to a mediator within ten (10) Business Days after the disputed portion of the Claim has been identified in writing. If the parties cannot agree

upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the Claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator.

24.7.8. Contractor's Obligation to File a Government Code Claim. Nothing in this Contract, including this Claims Resolution Process, waives, modifies or tolls the Contractor's obligation to present a timely claim under Government Code section 910, et seq. Therefore, in addition to complying with this Claims Resolution Process, the Contractor is required to present claims to the County pursuant to Government Code section 910, et seq. If after the requirements of this Claims Resolution Process are satisfied, and all or a portion of the Claim remains unresolved, and if the Government Code claim is rejected by the County, the Contractor may proceed under the post-mediation provisions of this Claims Resolution Process.

24.7.9. Post Mediation Provisions

24.7.9.1. Claims of \$375,000 or Less: The provisions of Public Contract Code § 20104.4 shall apply. Pursuant to Public Contract Code § 20104.4(a), within sixty (60) days, but no earlier than thirty (30) days, following the filing of responsive pleadings, the court shall submit the matter to nonbinding mediation unless waived by mutual stipulation of both parties. Pursuant to Public Contract Code § 9204(d)(2)(D), a mediation conducted pursuant to this Claims Resolution Process shall excuse the obligation under Public Contract Code § 20104.4(a) to mediate after litigation has been commenced unless otherwise agreed to by the parties in writing.

24.7.9.2. Litigation of Claims in Excess of \$375,000. If, after a mediation as indicated above, the Parties have not resolved the Claim, either Party may commence an action in a court of competent jurisdiction to contest that decision within ninety (90) days following the conclusion of that mediation or one (1) year following the accrual of the cause of action, whichever is later. By mutual agreement, the Parties can agree to instead resolve the Claim through arbitration.

24.7.10. The County shall be entitled to remedy any false claims, as defined in California Government Code section 12650 *et seq.*, made to the County by the Contractor or any Subcontractor under the standards set forth in Government Code section 12650 *et seq.* Any Contractor or Subcontractor who submits a false claim shall be liable to the County for three times the amount of damages that the County sustains because of the false claim. A Contractor or Subcontractor who submits a false claim shall also be liable to the County for (a) the costs, including attorney fees, of a civil action brought to recover any of those penalties or damages, and (b) a civil penalty of up to \$11,000 for each false claim.

24.8. Documentation of Resolution.

If a Claim is resolved, the County shall determine if that resolution shall be documented in a settlement agreement or release or other document, as appropriate.

24.9. Claim Resolution Process – Non-Applicability.

The procedures and provisions in this Claims Resolution section shall not apply to:

24.9.1. County's determination of what Work is or will be constructed, or whether the Work complies with the Contract Documents for purposes of accepting the Work;

24.9.2. County's rights and obligations as a public entity, such as, but without limitation, the revocation of pre-qualified or qualified status, barring a contractor from County contracts, the imposition of penalties or forfeitures prescribed by statute or regulation; provided, however, that penalties imposed against a public entity by statutes such as Public Contract Code section 7107, shall be subject to the mandatory dispute resolution provisions of this Claims Resolution section and the Contract;

24.9.3. Personal injury, wrongful death or property damage claims;

24.9.4. Latent defect or breach of warranty or guarantee to repair;

24.9.5. Stop notices or stop payment notices; or

24.9.6. Any other County rights as set forth herein.

24.10. The County's failure to respond to a Claim from the Contractor within the time periods described herein or to otherwise meet the time requirements of Public Contract Code section 9204 shall automatically result in the Claim being deemed rejected in its entirety, with no admission by the County as to the merits of the Claim.

24.11. If County fails timely issue payment for any Claim or portion of a Claim as required pursuant to these Claim Resolution Procedures, the Contractor is permitted to assess interest indicated in Public Contract Code section 9204. Notwithstanding this provision, and in accordance with Public Contract Code section 7107, the County is entitled to withhold up to 150% of disputed amounts and the County shall not be liable for payment of interest on such disputed amounts pending final adjudication of such disputes.

25. LABOR, WAGE & HOUR, APPRENTICE AND RELATED PROVISIONS

25.1. Compliance Monitoring and Enforcement by the DIR

25.1.1. County hereby provides notice of the requirements described in Labor Code section 1771.1, subdivision (a), which states the following:

"A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded."

25.1.2. Contractor acknowledges that, for purposes of Labor Code section 1725.5, this work is a public work to which Labor Code section 1771 applies. Contractor shall comply with Labor Code section 1725.5, including without limitation the registration requirements. Additionally, all "subcontractors" (as defined by Labor Code section 1722.1) shall comply with Labor Code section 1725.5 to be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of the Work. Contractor represents to the County that all "subcontractors" (as defined by Labor Code section 1722.1) are registered pursuant to Labor Code section 1725.5.

25.1.3. The Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Contractor shall post job site notices, as prescribed by regulation. Contractor shall comply with all requirements of Labor Code section 1771.4, except the requirements that are exempted by the Labor Commissioner for the Project.

25.2. Wage Rates, Travel and Subsistence

25.2.1. Pursuant to the provisions of article 2 (commencing at section 1770), chapter 1, part 7, division 2, of the Labor Code of California, the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which this public work is to be performed for each craft, classification, or type of worker needed to execute this Contract are on file at the County's principal

office and copies will be made available to any interested party on request. Contractor shall obtain and post a copy of these wage rates at the job site.

25.2.2. 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. The holidays upon which those rates shall be paid need not be specified by the County, but shall be all holidays recognized in the applicable collective bargaining agreement. If the prevailing rate is not based on a collectively bargained rate, the holidays upon which the prevailing rate shall be paid shall be as provided in Section 6700 of the Government Code.

25.2.3. Contractor shall pay and shall cause to be paid each worker engaged in Work on the Project not less than the general prevailing rate of per diem wages determined by the Director of the Department of Industrial Relations ("DIR") ("Director"), regardless of any contractual relationship which may be alleged to exist between Contractor or any Subcontractor and such workers.

25.2.4. If during the period this bid is required to remain open, the Director determines that there has been a change in any prevailing rate of per diem wages in the locality in which the Work under the Contract is to be performed, such change shall not alter the wage rates in the Notice to Bidders or the Contract subsequently awarded.

25.2.5. Pursuant to Labor Code section 1775, Contractor shall, as a penalty to County, forfeit the statutory amount, (currently not to exceed two hundred dollars (\$200) for each calendar day, or portion thereof), for each worker paid less than the prevailing rates, as determined by the County and/or the Director, for the work or craft in which that worker is employed for any public work done under Contract by Contractor or by any Subcontractor under it.

25.2.5.1. The amount of the penalty shall not be less than forty dollars (\$40) for each calendar day, or portion thereof, unless the failure of Contractor was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of Contractor.

25.2.5.2. The amount of the penalty shall not be less than eighty dollars (\$80) for each calendar day or portion thereof, if Contractor has been assessed penalties within the previous three (3) years for failing to meet Contractor's prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.

25.2.5.3. The amount of the penalty may not be less than one hundred twenty dollars (\$120) for each calendar day, or portion thereof, if the Labor Commissioner determines the Contractor willfully violated Labor Code section 1775.

25.2.5.4. The difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by Contractor.

25.2.6. Any worker employed to perform Work on the Project, which Work is not covered by any classification listed in the general prevailing wage rate of per diem wages determined by the Director, shall be paid not less than the minimum rate of wages specified therein for the classification which most nearly corresponds to Work to be performed by him, and such minimum wage rate shall be retroactive to time of initial employment of such person in such classification.

25.2.7. Pursuant to Labor Code section 1773.1, per diem wages are deemed to include employer payments for health and welfare, pension, vacation, travel time, subsistence pay, and apprenticeship or other training programs authorized by section 3093, and similar purposes.

25.2.8. Contractor shall post at appropriate conspicuous points on the Site of Project, a schedule showing all determined minimum wage rates and all authorized deductions, if any, from unpaid wages

actually earned. In addition, Contractor shall post a sign-in log for all workers and visitors to the Site, a list of all subcontractors of any tier on the Site, and the required Equal Employment Opportunity poster(s).

25.3. Hours of Work

25.3.1. As provided in article 3 (commencing at section 1810), chapter 1, part 7, division 2, of the Labor Code, eight (8) hours of labor shall constitute a legal days work. The time of service of any worker employed at any time by Contractor or by any Subcontractor on any subcontract under this Contract upon the Work or upon any part of the Work contemplated by this Contract shall be limited and restricted by Contractor to eight (8) hours per day, and forty (40) hours during any one week, except as hereinafter provided. Notwithstanding the provisions hereinabove set forth, Work performed by employees of Contractor in excess of eight (8) hours per day and forty (40) hours during any one week, shall be permitted upon this public work upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half times the basic rate of pay.

25.3.2. Contractor shall keep and shall cause each Subcontractor to keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by Contractor in connection with the Work or any part of the Work contemplated by this Contract. The record shall be kept open at all reasonable hours to the inspection of County and to the Division of Labor Standards Enforcement of the DIR.

25.3.3. Pursuant to Labor Code section 1813, Contractor shall as a penalty to the County forfeit the statutory amount (believed by the County to be currently one hundred dollars (\$100)) for each worker employed in the execution of this Contract by Contractor or by any Subcontractor for each calendar day during which such worker is 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 the provisions of article 3 (commencing at section 1810), chapter 1, part 7, division 2, of the Labor Code.

25.3.4. Any Work necessary to be performed after regular working hours, or on Sundays or other holidays shall be performed without additional expense to the County.

25.4. Payroll Records

25.4.1. Pursuant to the provisions of section 1776 of the Labor Code, notice is hereby given that Contractor shall prepare and provide to the California Department of Industrial Relations and shall cause each Subcontractor performing any portion of the Work under this Contract to prepare and provide to the California Department of Industrial Relations, accurate and certified payroll record ("CPR(s)"), showing the name, address, social security number, work classification, straight time, and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the Contractor and/or each Subcontractor in connection with the Work.

25.4.1.1. In addition to any other requirements under Labor Code section 1770, et seq., the CPRs enumerated hereunder shall be certified and shall be provided as required by the California Department of Industrial Relations.

25.4.2. In addition, all CPRs shall be available for inspection at all reasonable hours at the principal office of Contractor on the following basis:

25.4.2.1. A certified copy of an employee's CPR shall be made available for inspection or furnished to the employee or his/her authorized representative on request.

25.4.2.2. CPRs shall be made available for inspection or furnished upon request to a representative of the County, the Division of Labor Standards Enforcement, the Division of Apprenticeship Standards, and/or the Department of Industrial Relations.

25.4.2.3. CPRs shall be made available upon request by the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the County, Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested CPRs have not been provided pursuant to the provisions herein, the requesting party shall, prior to being provided the records reimburse the costs of preparation by Contractor, Subcontractors, and the entity through which the request was made. The public shall not be given access to the records at the principal office of Contractor.

25.4.3. The form of certification for the CPRs shall be as follows:

I, _____ (Name-Print), the undersigned, am the _____ (Position in business) with the authority to act for and on behalf of _____ (Name of business and/or Contractor), certify under penalty of perjury that the records or copies thereof submitted and consisting of _____ (Description, number of pages) are the originals or true, full, and correct copies of the originals which depict the payroll record(s) of actual disbursements by way of cash, check, or whatever form to the individual or individual named, and (b) we have complied with the requirements of sections 1771, 1811, and 1815 of the Labor Code for any work performed by our employees on the Project.

Date: _____ Signature: _____ .
(Section 16401 of Title 8 of the California Code of Regulations)

25.4.4. Each Contractor shall file a certified copy of the CPRs with the entity that requested the records within ten (10) days after receipt of a written request.

25.4.5. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by County, Division of Apprenticeship Standards, or Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of Contractor awarded Contract or performing Contract shall not be marked or obliterated.

25.4.6. Contractor shall inform County of the location of the records enumerated hereunder, including the street address, city, and county, and shall, within five (5) Business Days, provide a notice of change of location and address.

25.4.7. In the event of noncompliance with the requirements of this section, Contractor shall have ten (10) days in which to comply subsequent to receipt of written notice specifying in what respects Contractor must comply with this section. Should noncompliance still be evident after the ten (10) day period, Contractor shall, as a penalty to County, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of Division of Apprenticeship Standards or Division of Labor Standards Enforcement, these penalties shall be withheld from payments then due.

25.4.8. It shall be the responsibility of Contractor to ensure compliance with the provisions of Labor Code section 1776.

25.5. Apprentices

25.5.1. Contractor acknowledges and agrees that, if this Contract involves a dollar amount greater than or a number of working days greater than that specified in Labor Code section 1777.5, then this Contract is governed by the provisions of Labor Code Section 1777.5. It shall be the responsibility of Contractor to ensure compliance with this Article and with Labor Code section 1777.5 for all apprenticeship occupations.

25.5.2. Apprentices of any crafts or trades may be employed and, when required by Labor Code section 1777.5, shall be employed provided they are properly registered in full compliance with the provisions of

the Labor Code.

25.5.3. Every such apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade at which he/she is employed, and shall be employed only at the work of the craft or trade to which she/he is registered.

25.5.4. Only apprentices, as defined in section 3077 of the Labor Code, who are in training under apprenticeship standards and written apprentice agreements under chapter 4 (commencing at section 3070), division 3, of the Labor Code, are eligible to be employed. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which he/she is training.

25.5.5. Pursuant to Labor Code section 1777.5, if that section applies to this Contract as indicated above, Contractor and any Subcontractors employing workers in any apprenticeable craft or trade in performing any Work under this Contract shall apply to the applicable joint apprenticeship committee for a certificate approving the Contractor or Subcontractor under the applicable apprenticeship standards and fixing the ratio of apprentices to journeymen employed in performing the Work.

25.5.6. Pursuant to Labor Code section 1777.5, if that section applies to this Contract as indicated above, Contractor and any Subcontractor may be required to make contributions to the apprenticeship program.

25.5.7. If Contractor or Subcontractor willfully fails to comply with Labor Code section 1777.5, then, upon a determination of noncompliance by the Administrator of Apprenticeship, it shall:

25.5.7.1. Be denied the right to bid on any subsequent project for one (1) year from the date of such determination;

25.5.7.2. Forfeit as a penalty to County the full amount as stated in Labor Code section 1777.7. Interpretation and enforcement of these provisions shall be in accordance with the rules and procedures of the California Apprenticeship Council and under the authority of the Chief of the Division of Apprenticeship Standards.

25.5.8. Contractor and all Subcontractors shall comply with Labor Code section 1777.6, which section forbids certain discriminatory practices in the employment of apprentices.

25.5.9. Contractor shall become fully acquainted with the law regarding apprentices prior to commencement of the Work. Special attention is directed to sections 1777.5, 1777.6, and 1777.7 of the Labor Code, and title 8, California Code of Regulations, section 200 et seq. Questions may be directed to the State Division of Apprenticeship Standards, 455 Golden Gate Avenue, San Francisco, California 94102.

25.5.10. Contractor shall ensure compliance with all certification requirements for all workers on the Project including, without limitation, the requirements for electrician certification in Labor Code section 108, et seq.

25.6. Skilled and Trained Workforce Requirement

25.6.1. Contractor is familiar with the hiring requirements set forth in Public Contract Code section 20146, and as a condition of entering into this Agreement, Contractor understands and agrees that Contractor and its Subcontractors at every tier will use a skilled and trained workforce, as defined in Public Contract Code section 20146, to perform all Work on the Project that falls within an apprenticeable occupation in the building and construction trades.

25.6.2. Monthly Workforce Report. The Contractor will provide to the County on a monthly basis while the Project is being performed, a report demonstrating compliance by Contractor and its Subcontractors at every tier with the skilled workforce requirements described in Public Contract Code

section 2602 ("Workforce Report(s)").

25.6.2.1. **Content of Workforce Report(s).** The Workforce Reports will state the following:

25.6.2.1.1. Each Subcontractor's name and license number, or list the Contractor if the Contractor is self-performing the applicable scope of Work);

25.6.2.1.2. That each worker is either a registered apprentice in an apprenticeship program approved by the State or a skilled journey person;

25.6.2.1.3. Of the skilled journey persons for each Subcontractor and the Contractor, which are graduates of an approved apprenticeship program. It shall be sufficient for the Contractor to state the number workers in each applicable category. The Contractor is not required to identify each individual worker who performed work on the Project in the Contractor's monthly report.

25.6.2.1.4. The monthly and cumulative percentages that entity has achieved of those graduates. If a Subcontractor (or the Contractor) is meeting the percentage cumulatively, it will be considered in compliance for that scope of Work.

25.6.2.2. **Time Frame.** Each monthly Workforce Report must include all work performed during the preceding month and must be submitted to the County no later than thirty (30) days after the end of the preceding month. (i.e., the monthly Workforce Report for activity during March must be submitted no later than April 30.)

25.6.2.3. **No Report or Incomplete Report of Contractor.**

25.6.2.3.1. If the Contractor fails to provide a Workforce Report or provides a Workforce Report that is incomplete, the County shall withhold further payments from the Contractor until the Contractor provides a complete Workforce Report for that month. The County shall withhold from the Contractor an amount equal to one hundred and fifty percent (150%) of the value of the monthly billing for the relevant Subcontractor(s), which the Contractor shall be entitled to withhold from the Subcontractor(s).

25.6.2.3.2. If the Contractor submits to the County a plan to achieve substantial compliance with Public Contract Code section 2601, et seq, the County shall resume making payments to the Contractor, including all previously withheld payments, unless, within a reasonable time, the County rejects the plan as insufficient. In the event that the County rejects the Contractor's plan as insufficient, the County shall provide an explanation in writing of the basis of for the County's rejection of the Contractor's plan.

25.6.2.4. **No Report or Incomplete Report of Subcontractor(s).**

25.6.2.4.1. If a monthly report by the Contractor is incomplete due to the failure of a Subcontractor(s) to timely or completely submit the information to the Contractor or County, the County shall only withhold an amount equal to one hundred and fifty percent (150%) of the value of the monthly billing for the non-compliant Subcontractor(s).

25.6.2.4.2. If the Contractor substitutes Subcontractor(s) for failure to provide a complete or timely report, and the Contractor replaces the Subcontractor(s) with one that provides an enforceable commitment that a skilled and trained workforce as defined in Public Contracts Code 2601, et seq. will be used to complete the Project, the County shall resume making payments to the Contractor.

25.6.2.5. **County Reporting Requirements.** The County shall forward to the Labor Commissioner a copy of a Contractor's monthly report submitted to the County that fails to comply with Public

Contract Code section 2602, et seq. In the event that the Contractor submits a plan to the County to achieve substantial compliance with Public Contract Code 2601 et. seq., the County shall forward a copy of that plan to the Labor Commissioner.

25.6.3. End-of-Project Reconciliation.

25.6.3.1. At the end of the Project, if the Contractor cannot demonstrate that it has met the applicable participation level for all work that falls within an apprenticeable occupation as defined in Public Contract Code section 2600, et seq., Contractor may remedy its failure by paying to the appropriate trade apprenticeship fund(s), an amount equal to the number of additional hours required to meet the percentage, multiplied by the "Training" amount for that trade, at the Basic Hourly Rate. The Contractor must provide documentation to the County reasonably sufficient to demonstrate this payment and the trade apprenticeship funds' acceptance of payment(s).

25.6.3.2. If payment(s) to the applicable trade apprenticeship fund(s) are not made or accepted, then the County shall have the right to permanently retain ten percent (10%) of the price for the out of compliance apprenticeable occupation's Work, per month, as reflected in the Project's schedule of values, not to exceed the monthly amounts for first-time violations indicated in Public Contract Code 2603(a). The County shall withhold those funds until the Labor Commissioner makes its determination of violations pursuant to Public Contract Code section 2603. At that time, the County will distribute those funds as directed by the Labor Commissioner or, if the Labor Commissioner determines that no violation was made or the penalty(ies) are less than the amount the County is withholding, the County shall pay the applicable withheld amounts to the Contractor, with no interest or penalty.

25.6.3.3. The Parties agree that these end-of-Project remedies are reasonable and sufficient, subject to a determination made by Department of Industrial Relations or a court of competent jurisdiction that one or both of these remedies is insufficient.

25.6.3.4. Any payments the County withholds from the Contractor for noncompliance will be reflective only of the trade(s) or Subcontractor(s) out of compliance and will be paid once the subcontractor(s) and/or trade(s) are cumulatively compliant, subject to the End-of-Project Reconciliation process indicated herein above.

25.7. Non-Discrimination

25.7.1. Contractor herein agrees not to discriminate in its recruiting, hiring, promotion, demotion, or termination practices on the basis of race, religious creed, national origin, ancestry, sex, age, or physical handicap in the performance of this Contract and to comply with the provisions of the California Fair Employment and Housing Act as set forth in part 2.8 of division 3 of the California Government Code, commencing at section 12900; the Federal Civil Rights Act of 1964, as set forth in Public Law 88-352, and all amendments thereto; Executive Order 11246, and all administrative rules and regulations found to be applicable to Contractor and Subcontractor.

25.7.2. Special requirements for Federally Assisted Construction Contracts: During the performance of this Contract, Contractor agrees to incorporate in all subcontracts the provisions set forth in Chapter 60-1.4(b) of Title 41 published in Volume 33 No. 104 of the Federal Register dated May 28, 1968.

25.8. Labor First Aid

Contractor shall maintain emergency first aid treatment for Contractor's workers on the Project which complies with the Federal Occupational Safety and Health Act of 1970 (29 U.S.C. § 651 et seq.), the California Occupational Safety and Health Act of 1973, and all related regulations, including without limitation section 330 et seq. of Title 8 of the California Code of Regulations.

26. MISCELLANEOUS

26.1. Assignment of Antitrust Actions

26.1.1. Section 7103.5(b) of the Public Contract Code states:

In entering into a public works contract or subcontract to supply goods, services, or materials pursuant to a public works contract, the Contractor or subcontractor offers and agrees to assign to the awarding body 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, made and become effective at the time the awarding body tenders final payment to the Contractor, without further acknowledgment by the parties.

26.1.2. Section 4552 of the Government Code states:

The Contractor offers and agrees that it will assign to the purchasing body 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, materials, or services by the Contractor for sale to the purchasing body pursuant to the Contract. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the Contractor.

26.1.3. Section 4553 of the Government Code states:

If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery.

26.1.4. Section 4554 of the Government Code states:

Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action.

26.2. Under this Article, "public purchasing body" is County.

26.3. Excise Taxes

If, under Federal Excise Tax Law, any transaction hereunder constitutes a sale on which a Federal Excise Tax is imposed and the sale is exempt from such Federal Excise Tax because it is a sale to a State or Local Government for its exclusive use, County, upon request, will execute documents necessary to show (1) that County is a political subdivision of the State for the purposes of such exemption, and (2) that the sale is for the exclusive use of County. No Federal Excise Tax for such materials shall be included in any Contract Price.

26.4. Taxes

Contract Price is to include any and all applicable sales taxes or other taxes that may be due in accordance with section 7051 of the Revenue and Taxation Code; Regulation 1521 of the State Board of Equalization or any other tax code that may be applicable.

26.5. Shipments

All shipments must be F.O.B. destination to Site or sites, as indicated in the Contract Documents. There must be no charge for containers, packing, unpacking, drayage, or insurance. The total Contract Price shall be all inclusive (including sales tax) and no additional costs of any type will be considered.

26.6. Compliance with Government Reporting Requirements

If this Contract is subject to federal or other governmental reporting requirements because of federal or other governmental financing in whole or in part for the Project which it is part, or for any other reason, Contactor shall comply with those reporting requirements at the request of the County at no additional cost.

END OF DOCUMENT

SUPPLEMENTARY CONDITIONS

[THIS DOCUMENT MUST BE MODIFIED AND ADAPTED FOR EACH SPECIFIC PROJECT]

1. County Delay(s)

To the extent that Contractor is entitled to Compensable Delay as provided by the Contract Documents, the Contractor and the County agree that it is impractical and infeasible to determine the amount of actual damage suffered by the Contractor as a result of that delay. Those damages include, but are not limited to, extended home and field office overhead, impairment of bonding capacity, lost opportunity, and all other damages or claims, regardless of tier, attributable, or claimed to be attributable to that delay. **Accordingly, in that instance, it is agreed that the County will pay to the Contractor as fixed and liquidated damages, and not as a penalty, the following sum for each calendar day of delay beyond the Contract Time: _____ Dollars (\$ _____). [AT THE CONCLUSION OF PRECONSTRUCTION SERVICES, THE PARTIES SHALL AMEND THIS PROVISION TO INCLUDE AN AMOUNT ASSOCIATED WITH THIS PROVISION, IF USED.]**

2. Mitigation Measures

- a. **CEQA**. Contractor shall comply with all applicable mitigation measures, if any, adopted by any public agency with respect to this Project pursuant to the California Environmental Quality Act. (Public Resources Code section 21000 et. seq.) **[ANY MITIGATION MEASURES INDICATED IN CEQA SHALL BE LISTED HERE.]**
- b. **Nesting Birds**. If the Project involves any tree removal, then pursuant to the Migratory Bird Treaty Act (16 U.S.C. § 703-712) and the California Fish and Game Code (§§ 3503-3503.5), the Firm will conduct a pre-construction nesting survey no more than two (2) weeks prior to removal to ensure that no nesting birds are nesting in or near any Work area. If any protected bird species are found during the survey(s), Contractor shall immediately notify the County for further direction prior to performing any Work in an area that will disturb those nesting birds.

5. Modernization Projects

- a. **Access**. Access to the buildings and entry to buildings, restrooms, mechanical rooms, electrical rooms, or other rooms, for construction purposes, must be coordinated with County and onsite County personnel before Contractor commences Work. Contractor shall gang lock or buddy lock the padlock in order to access the grounds as needed on the Project. This locking technique shall be reviewed with the County prior to utilization.
- b. **Master Key**. Upon request, County may, at its own discretion, provide a master key to the site for the convenience of Contractor. Contractor agrees to pay all expenses to re-key the entire site and all other affected County buildings if the master key is lost or stolen or if any unauthorized party obtains a copy of the key or access to the key.
- c. **Maintaining Services**. Contractor is advised that Work is to be performed in spaces regularly scheduled for instruction. Interruption and/or periods of shutdown of public access, electrical service, water service, lighting, or other utilities shall be only as arranged in advance with County. Contractor shall provide temporary services to all facilities interrupted by Contractor's Work.
- d. **Maintaining Utilities**. Contractor shall maintain in operation during term of Contract, drainage lines,

storm drains, sewers, water, gas, electrical, steam, and other utility service lines within working area.

- e. **Hypodermic Needles/Sharp Objects.** Contractor shall ensure that all of its employees and its subcontractors' employees protect themselves at all times from injury from trash, sharp objects including used hypodermic needles, that are sometimes illegally deposited by others on County sites.

6. **Badge Policy for Contractors**

Contractor shall provide their workers and all of Subcontractors' workers with identification badges. These badges shall be worn by all members of the Contractor's staff and all of Subcontractors' staff who are working in a County facility.

- a. Badges must be filled out in full and contain the following information:
 - (1) Name of Contractor
 - (2) Name of Employee
 - (3) Contractor's address and phone number
- b. Badges must be worn when Contractor or his/her employees are on site and must be visible at all times. Contractors must inform their employees that they are required to allow County employees, the Architect, the Construction Manager, the Program Manager, or the Project Inspector to review the information on the badges upon request.
- c. Failure to display identification badges as required by this policy may result in the assessment of fines against the Contractor.

7. **Substitution for Specified Items**

- a. Requests for substitutions after award of the Contract shall be within **THIRTY-FIVE (35)** days of the date of the Notice of Award. This time period can be extended by the County only, in its sole discretion.
- b. Whenever in the Specifications any materials, process, or article is indicated or specified by grade, patent, or proprietary name, or by name of manufacturer, that Specification shall be deemed to be followed by the words "or equal." Contractor may, unless otherwise stated, offer any material, process, or article that shall be substantially equal or better in every respect to that so indicated or specified.
 - (1) If the material, process, or article offered by Contractor is not, in the opinion of the County, substantially equal or better in every respect to that specified, then Contractor shall furnish the material, process, or article specified in the Specifications without any additional compensation or change order.
 - (2) This provision shall not be applicable with respect to any material, product, thing or service for which County made findings and gave notice in accordance with Public Contract Code section 3400(b); therefore, Contractor shall not be entitled to request a substitution with respect to those materials, products or services.
- c. A request for a substitution shall be in writing and shall include:
 - (1) All variations of the proposed substitute from the material specified including, but not limited to, principles of operation, materials, or construction finish, thickness or gauge of materials, dimensions, weight, and tolerances;
 - (2) Available maintenance, repair or replacement services;

- (3) Increases or decreases in operating, maintenance, repair, replacement, and spare parts costs;
 - (4) Whether or not acceptance of the substitute will require other changes in the Work (or in work performed by the County or others under Contract with the County); and
 - (5) The time impact on any part of the Work resulting directly or indirectly from acceptance of the proposed substitute.
- d. No substitutions shall be made until approved, in writing, by the County. The burden of proof as to equality of any material, process, or article shall rest with Contractor. The Contractor warrants that if substitutes are approved:
- (1) The proposed substitute is equal or superior in all respects to that specified, and that such proposed substitute is suitable and fit for the intended purpose and will perform adequately the function and achieve the results called for by the general design and the Contract Documents;
 - (2) The Contractor provides the same warranties and guarantees for the substitute that would be provided for that specified;
 - (3) The Contractor shall be fully responsible for the installation of the substitute and any changes in the Work required, either directly or indirectly, because of the acceptance of such substitute, with no increase in Contract Price or Contract Time. 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;
 - (4) The Contractor shall be responsible for any re-design costs occasioned by County's acceptance and/or approval of any substitute; and
 - (5) The Contractor shall, in the event that a substitute is less costly than that specified, credit the County with one hundred percent (100%) of the net difference between the substitute and the originally specified material. In this event, the Contractor agrees to execute a deductive Change Order to reflect that credit.
- e. In the event Contractor furnishes a material, process, or article more expensive than that specified, the difference in the cost of that material, process, or article so furnished shall be borne by Contractor.
- f. In no event shall the County be liable for any increase in Contract Price or Contract Time due to any claimed delay in the evaluation of any proposed substitute or in the acceptance or rejection of any proposed substitute.
- g. If the County approves a substitution after the award of the Contract, the County shall memorialize that approval in a Change Order or other applicable Contract modification process.

8. **Weather Days**

Delays due to Adverse Weather conditions will only be permitted in compliance with the provisions in the General Conditions and only if the number of days of Adverse Weather exceeds the following parameters:

[MODIFY DAYS FOR AREA OF PROJECT]

January	<u>7</u>	July	<u>0</u>
February	<u>7</u>	August	<u>0</u>
March	<u>6</u>	September	<u>0</u>

April	<u>3</u>	October	<u>2</u>
May	<u>1</u>	November	<u>3</u>
June	<u>0</u>	December	<u>3</u>

9. **Insurance Policy Limits.** Contractor's insurance shall be with insurance companies with an A.M. Best rating of no less than _____ **[E.G. A: IX, MODIFY RATING OF CARRIER, AS DESIRED.]** The limits of insurance shall not be less than:

[MODIFY LIMITS OF INSURANCE FOR PROJECT, AS DESIRED]

Commercial General Liability	Includes: Personal & Advertising Injury, Product Liability and Completed Operations	\$2,000,000 each occurrence; \$4,000,000 general aggregate
Automobile Liability – Any Auto	Combined Single Limit	\$2,000,000 per occurrence
Excess Liability (Umbrella)		\$6,000,000 per occurrence; \$6,000,000 aggregate
Workers Compensation		Statutory limits pursuant to State law
Employers' Liability		\$2,000, 000 each accident, each disease; \$2,000,000 policy limit
Builder's Risk (Course of Construction)		Issued for the value and scope of Work indicated herein.
Property of Others	Combined Single Limit General Aggregate	Issued for the value and scope of Work stored off-site.

10. **Contractor's Risk Insurance: Contractor's Risk "All Risk" Insurance.**

- a. **[NO EARTHQUAKE OR FLOOD]** Contractor shall procure and maintain, during the life of the Project, Contractor's Builders Risk (Course of Construction), or similar first party property coverage acceptable to the County, issued on a replacement cost value basis. The cost shall be consistent with the total replacement cost of all insurable Work of the Project included within the Contract Documents.
- b. Coverage is to insure against all risks of accidental physical loss and shall include without limitation the perils of vandalism and/or malicious mischief (both without any limitation regarding vacancy or occupancy), sprinkler leakage, civil authority, sonic disturbance, collapse, wind, fire, lightning, and smoke. Coverage shall include debris removal, demolition, increased costs due to enforcement of all applicable ordinances and/or laws in the repair and replacement of damaged and undamaged portions of the property, and reasonable costs for the Architect's and engineering services and expenses required as a result of any insured loss upon the Work and Project, including completed Work and Work in progress, to the full insurable value thereof.
- c. **Earthquake and Flood Coverage.** The County may require the Contractor to include coverage for "earthquake(s)" and/or "flood" and Contractor shall provide the price for those additional coverages for the County's consideration prior to including or charging the County for those coverages.
- d. The deductible for this insurance shall be paid by Contractor.

11. **Permits, Certificates, Licenses, Fees, Approval**

- a. **Approvals, Certificates, Fees, Inspections, Licenses, Permits, Etc.**

(1) **Permits in Contract Price.** Contractor shall include in its Contract Price the cost of any approvals, certificates, fees, inspections, licenses, permits or similar requirements necessary for the performance of the Work ("Permits").

a) "Permits" includes, without limitation, any of the following if required: temporary or permanent building, mechanical, electrical or plumbing permits; certificates of occupancy; curb-breaking permits, highway entrance permits; water permits; local inspector fees; etc.

b) "Permits" does not include Project Inspector fees (which will be paid by the County unless otherwise indicated herein), professional licensing, or contractors' licensing.

c) The Contractor shall be required to obtain all Permits. The Contractor shall ensure sufficient time in its Construction Schedule to secure and obtain all permits and shall not be permitted to claim a delay in the Project due to a delay in obtaining a Permit.

- b. **Certain Fees Not Part of Permits.** Notwithstanding the above requirements, County shall oversee the obtaining and payment of the following permits, fees or charges, but Contractor shall assist in those efforts as requested by the County at no additional cost to County:

[MODIFY PERMITS THAT COUNTY WILL PROCURE AND PAY FOR ON THIS SPECIFIC PROJECT]

(1) **[E.G. (WATER CONNECTION FEES)]**

(2) **[E.G. (SEWER CONNECTION FEES)]**

(3) **[E.G. (IMPACT FEES)]**

(4) **[E.G. (CAPACITY CHARGES)]**

- c. **Storm Water Permits**

[MODIFY BASED ON WHETHER THE COUNTY WILL DESIGNATE THE CONTRACTOR AS THE QSP.]

(1) Contractor shall perform the Work of the Project related to being County's Qualified SWPPP (Storm Water Pollution Prevention Plan) Practitioner ("QSP").

(2) As County's QSP, Contractor shall be responsible for storm water and non-storm water visual observations, sampling, and analysis per the County's SWPPP.

(3) Contractor shall strictly follow the requirements to implement all the provisions of the SWPPP including, without limitation, preparation of monitoring and recording reports and providing those to County.

(4) Contractor's indemnity obligations are applicable to any damages, penalties, fees, charges, or related expenses assessed or charged to the County by any water boards or agencies with jurisdiction related to compliance with the Storm Water Permits.

END OF DOCUMENT

DOCUMENT 00 91 13

ADDENDA

[ALL ADDENDA ISSUED BY COUNTY BECOMES PART OF THE CONTRACT.]