



# RESOLUTION No. 21-131

## OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

### RESOLUTION APPROVING THE BID CONSTRUCTION DOCUMENTS AND SPECIFICATIONS FOR THE NEVADA COUNTY BOST HOUSE COTTAGE ADDITION, AUTHORIZING THE BOARD CHAIR TO SIGN THE DOCUMENTS AND DIRECTING THE PURCHASING AGENT TO SOLICIT BIDS (FACILITIES MANAGEMENT)

WHEREAS, the Bost House requires additional rooms for meetings and office space for managers to provide support to clients requiring substance abuse treatment; and

WHEREAS, this project will provide an addition to the existing cottage to more than double the existing square footage; and

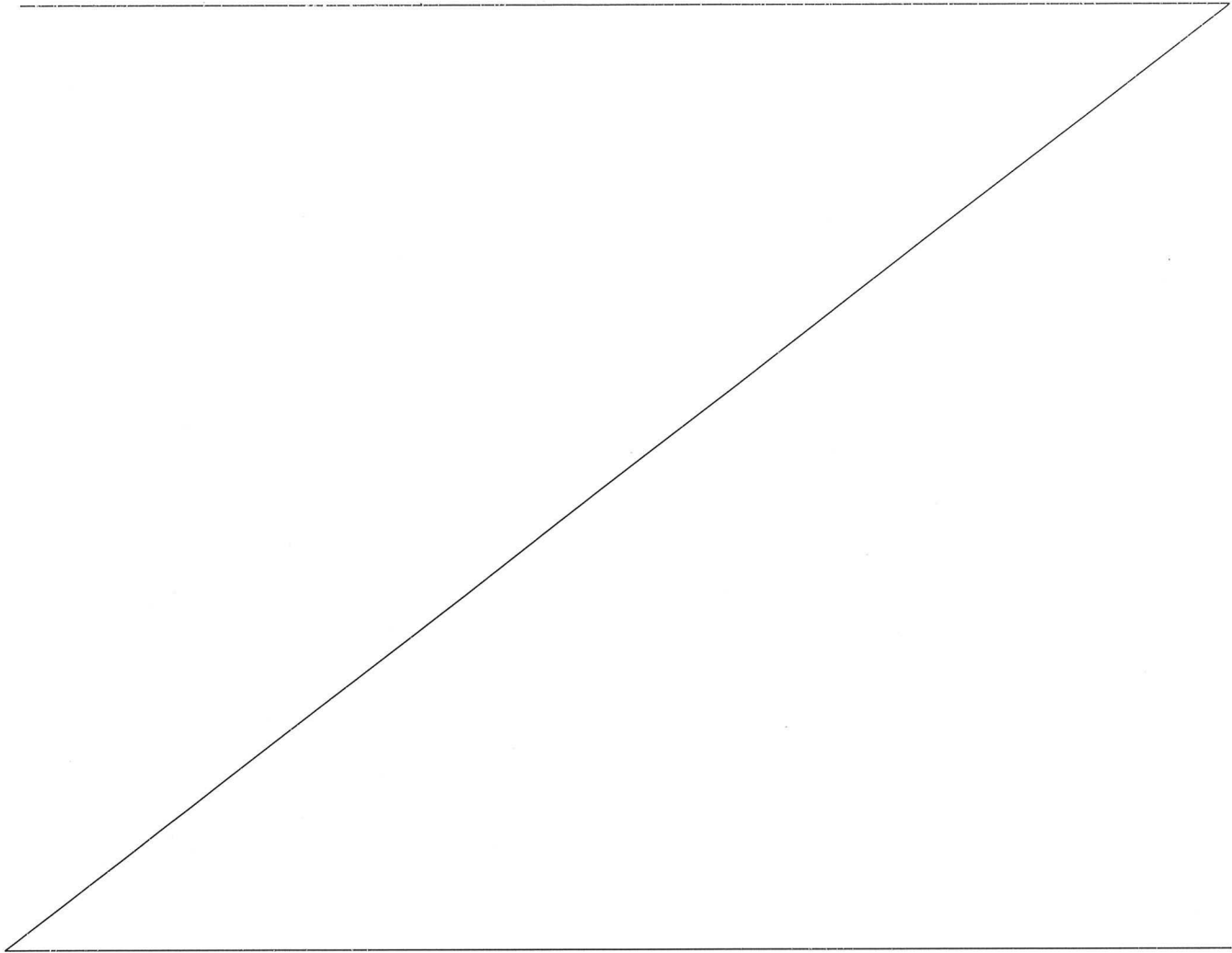
WHEREAS, the new space will include an ADA restroom, a dorm room, a group room and a counselor room, a new deck, and ADA access and site accessibility improvements; and

WHEREAS, the Chief Information Officer has prepared construction documents for the project known as the Nevada County Bost House Cottage Addition; and

WHEREAS, this project will be paid from the Capital Facilities Fiscal Year 2020-21 budget and reimbursed by Behavioral Health through a Community-Based Transitional Housing grant from the California Department of Finance and a budget amendment will be included in the contract award process.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of the County of Nevada, State of California, hereby:

1. Approves the bid construction documents and specifications for the Nevada County Bost Cottage Addition and authorizes the Chair of the Board of Supervisors to sign the documents.
2. Directs the Purchasing Agent to solicit bids for this project.



PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 27th day of April, 2021, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Dan Miller, Susan K. Hoek and Hardy Bullock.

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER  
Clerk of the Board of Supervisors

By: 

  
Dan Miller, Chair

4/27/2021 cc: Facilities\*  
AC\*  
Purchasing\*

County of Nevada  
Information & General Services Department  
Purchasing Division



Invitation for Bid

For

**Nevada County Bost Cottage Addition**

Date issued: Tuesday, April 27, 2021

**Bids Due: 2:30 p.m., Wednesday, June 2, 2021**

Due to the State mandated social distancing policy, the County will conduct this public bid opening through the following on-line site:

Nevada County is inviting you to a scheduled TEAMS meeting at  
2:30 p.m., Wednesday, June 2, 2021

**Pre-Bid Site Visit (recommended)**

**9:00 a.m., Wednesday, May 12, 2021**

at:

**145 Bost Ave. Nevada City, CA. 95959**

Due to the State mandated social distancing policy, the County will conduct the Pre-Bid meeting in person however, all participants are required to wear face masks and maintain a 6-foot distance between all attendees. In addition, the County will host a virtual Pre-Bid meeting for those unable to attend in person. A link to the virtual meeting is provided in the Bid documents

BIDDING DOCUMENTS, SPECIFICATIONS  
AND CONTRACT DOCUMENTS  
(Standard Public Works Contract)

**CONTRACT TIME LINE**

1. BIDS DUE: **2:30 p.m., Wednesday, June 2, 2021**
2. BID OPENING: **2:30 p.m., Wednesday, June 2, 2021**
3. BIDS TO REMAIN OPEN FOR **60** DAYS FROM DATE OF OPENING OF BIDS (See paragraph 21 of Instructions to Bidders)
4. NOTICE OF AWARD DUE WITHIN **30** DAYS OF OPENING OF BIDS (See paragraph 23 of Instructions to Bidders and same as 3 above)
5. BID BONDS OF UNSUCCESSFUL BIDDERS TO BE RETURNED WITHIN **10** DAYS OF AWARD BY COUNTY (See paragraph 18 of Instructions to Bidders)
6. CONTRACT SIGNING AND BONDS DUE WITHIN **5** DAYS OF NOTICE OF AWARD (See paragraph 24 and 26 of Instructions to Bidders)
7. NOTICE TO PROCEED WITH WORK DUE WITHIN **15** DAYS OF CONTRACT SIGNING (See paragraph 25 of Instructions to Bidders)
8. CONSTRUCTION MUST BEGIN WITHIN **10** DAYS AFTER MAILING OF NOTICE TO PROCEED (See Article III of Contract)
9. CONTRACTOR MUST GIVE 72 HOURS WRITTEN NOTICE OF DATE WORK WILL COMMENCE.
10. PRECONSTRUCTION CONFERENCE WITHIN **5** DAYS OF NOTICE TO PROCEED (See Article VIII of Contract)
11. SCHEDULES AND BREAKDOWN OF PHASES OF CONSTRUCTION DUE IN **7** DAYS AFTER RECEIPT OF NOTICE TO PROCEED (See Article VIII of Contract)
12. WORK MUST BE COMPLETED WITHIN **45** DAYS OF MAILING OF THE NOTICE TO PROCEED (See Article III of Contract)



## INVITATION FOR BID

FOR: **Nevada County Bost Cottage Addition**

LOCATED AT: **145 Bost Ave. Nevada City, CA. 95959**

Sealed bids will be received at the office of the:

Purchasing Division  
Suite 129  
County of Nevada  
950 Maidu Ave.  
Nevada City, California 95959

Due to State mandated social distancing policy, Submittals are to be received by mail, or if hand delivered, must be placed in a sealed envelope with the name of the project clearly printed on the front of the envelope and should be deposited at the designated table located in the Lobby of the Eric Rood Administrative Center. All bids will be dated and time-stamped once received by the County representative.

Until **2:30 p.m.** local time on **Wednesday, June 2, 2021** for the above referenced project.

Bids received after said time will not be accepted and will be returned unopened.

At said place and time, and promptly thereafter, all bids that have been properly submitted will be publicly opened and read aloud. All interested parties are invited to attend.

**Due to the State mandated social distancing policy, the County will conduct this public bid opening through the following on-line site: Nevada County is inviting you to a scheduled TEAMS meeting at 2:30 p.m., Wednesday, June 2, 2021**

### **Join on your computer or mobile app**

[Click here to join the meeting](#)

### **Or call in (audio only)**

+1 530-414-9282,,

Phone Conference ID: 263 376 759#

The work to be performed includes the following:

Add an addition to the existing Bost Cottage according to the plans and specifications, including but not limited to: One new ADA restroom, demolition, excavation, concrete, electrical, plumbing, HVAC, insulation, drywall, siding, paint, doors, windows, flooring, roofing, deck, ADA path of travel and site accessibility improvements.

Bids shall be: **Lump Sum.**

Bids must be for all of the work described herein unless the bid form specifically indicates a bid item is optional.

Bids shall be: **Lump Sum.** Bids must be for all work described herein unless the bid form specifically indicates a bid item is optional. Plans, specifications, proposal forms, project manuals and all documents relating to this project can only be obtained at the office or website

[www.mynevadacounty.com/purchasing](http://www.mynevadacounty.com/purchasing) under *Current Requests for Bids and Proposals*

Vendors must register with the County in order to be notified of addenda and other notices.

To register, please go to: <https://www.publicpurchase.com/gems/register/vendor/register>.

The County will not be providing printed copies of the plans to bidders for this project.

Contractor will be required to possess a **B** contractor's license, contractor or sub-contractor will be required to possess a C-16 fire protection, C-20 HVAC, and a C-10 electrical license at the time the bid is submitted.

**A pre-bid walk-through will be held beginning at 9:00 a.m., Wednesday, May 12, 2021 at the project site at 145 Bost Ave. Nevada City, CA. 95959**

Due to the State mandated social distancing policy, the County will conduct the Pre-Bid meeting in person however, all participants are required to be wearing face masks and maintain a 6-foot distance between all attendees. In addition, the County will host a virtual Pre-Bid meeting for those unable to attend in person. A link to the virtual meeting is provided below:

**Join on your computer or mobile app**

[Click here to join the meeting](#)

**Or call in (audio only)**

+1 530-414-9282,

Phone Conference ID: 737 831 779#

Bids will be accepted from bidders who did not attend the pre-bid conference, but bidders will be charged with all of the information disseminated at the pre-bid conference as if they had been present.

Questions regarding the Work or the contract Documents shall be submitted online on Public Purchase due before **3:00 p.m., Wednesday, May 19, 2021.**

Bids shall be received by **2:30 p.m., Wednesday, June 2, 2021.** For all bids over \$25,000, each bidder must submit a cashier's check, certified check or a bidder's bond in an amount equal to 10% of the total amount of the bid.

The bidder to whom a contract is awarded will be required to furnish a performance bond and a labor and materials bond guaranteeing faithful performance and payment of all debts related to this contract.

The County of Nevada, in accordance with Title VI of the Civil Rights Act of 1964 (78 Stat. 252) and the regulations of the Department of Commerce (15 C.F.R., Part 8), issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

This is a public works project, subject to the prevailing wage requirements of the California Labor Code. Copies of the prevailing rate of per diem wages are available at the California Department of Industrial Relations web site [www.dir.ca.gov/DLSR/PWD/](http://www.dir.ca.gov/DLSR/PWD/). Contractor shall not pay less than the prevailing rate of wages. No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015), unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)]. No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

No bid will be considered unless it is made on a form furnished by the County of Nevada and is made in accordance with the provisions of the proposal requirements and conditions set forth in the contract documents.

The County of Nevada reserves the right to reject any or all bids.

DATED: 4/27/2021

COUNTY OF NEVADA  
STATE OF CALIFORNIA

By   
Chairman, Board of Supervisors or  
Purchasing Agent

## INSTRUCTIONS TO BIDDERS

FOR: **Nevada County Bost Cottage Addition**

LOCATED AT: **145 Bost Ave. Nevada City, CA. 95959**

### 1. DEFINITIONS

Bidder: One who submits a bid directly to County as distinct from a sub-bidder who submits a bid to a bidder.

Successful Bidder: The lowest, qualified, responsive, responsible bidder to whom County makes an award.

Bidding Documents:

- Invitation for Bid
- Instruction to Bidders
- Bid Form
- Bidders Bond or other security
- Experience Statement
- Subcontractor Listing
- Bidder's Representations
- Proposed Contract Documents
- Any and all Addenda

### 2. COPIES OF BIDDING DOCUMENTS

Complete copies of the bid documents and specifications for use in preparing bids may be obtained in accordance with the Invitation for Bid. Bid documents are also available electronically and can be downloaded from [www.mynevadacounty.com/purchasing](http://www.mynevadacounty.com/purchasing) under the Requests for Bids and Proposals section Requests For Proposal section. Addenda will also be posted to this location. Vendors must register with the County in order to be notified of addendums and other notices. To register, please go to: <https://www.publicpurchase.com/gems/register/vendor/register>.

Partial sets of bidding documents will not be issued. Complete sets of bidding documents shall be used in preparing bids. County assumes no responsibility for errors or misinterpretations resulting from the use of incomplete sets of bidding documents. If bidder believes its set of bidding documents is incomplete, it shall be the responsibility of bidder to contact County to confirm that Bidder has a complete set.

County, in making copies of bidding documents available on the above terms, does so only for the purpose of obtaining bids on the work and does not confer a license or grant for any other use.

### 3. QUALIFICATIONS OF BIDDERS

Each bidder must be prepared to submit, within five days of County's request, written evidence of bidder's qualifications to perform the work. Bidders may be required to submit evidence that they have a practical knowledge of the particular work bid upon, and that they have the financial resources to complete the proposed work. In determining the bidder's qualifications, the following factors will be considered: work previously completed by the bidder and whether the bidder (a) maintains a permanent place of business, (b) has adequate plant and equipment to do the work properly and expeditiously, (c) has the financial resources to meet all obligations incident to the work, and (d) has appropriate technical experience. Each bidder may be required to show that he or she has handled former work so that no just claims are pending

against such work. No bid will be accepted from a bidder who is engaged on any work which would impair his or her ability to perform or finance this work.

Each bidder must hold a current valid contractor's license at the time of bidding or the bid will be rejected.

#### **4. INSPECTION OF SITE OF WORK**

Bidders are required to inspect the site of the work in order to satisfy themselves, by personal examination or by such other means as they may prefer, of the location of the proposed work and as to the actual conditions of and at the site of work. If, during the course of the examination, bidder finds facts or conditions which appear confusing to bidder, bidder shall apply to County for additional information and explanation before submitting the bid. However, no such supplemental information so requested or furnished shall vary the terms of the specifications or the Contractor's sole responsibility to satisfy himself or herself as to the conditions of the work to be performed, unless an addendum has been issued.

The submission of a bid by the bidder shall constitute the acknowledgment that, if awarded the contract, bidder has relied and is relying on bidder's examination of (a) the site of the work, (b) the access to the site, and (c) all other data, matters, and things requisite to the fulfillment of the work and on bidder's own knowledge of existing conditions on and in the vicinity of the site of the work to be constructed under the contract, and not on any representation or warranty of County. No claim for additional compensation will be allowed which is based upon a lack of knowledge of the above items.

Where technical reports or data have been utilized in the preparation of the contract documents, bidder may rely upon the accuracy of the technical data contained in such reports but not upon the interpretations or opinions contained therein for the completeness thereof for the purpose of bidding or construction.

Where plans and specifications contain drawings of physical conditions in or relating to existing surface conditions, including underground facilities, which are at or contiguous to the site, bidder may rely upon the accuracy of the data contained in such drawings but not upon the completeness thereof for the purposes of bidding or construction. If a mass diagram has been prepared for a project, it is for design purposes only. If it is made available to bidders, County assumes no responsibility whatever for the information contained therein and makes no guarantees with respect to reliance thereon.

Before submitting a bid, each bidder will, at bidder's own expense, make or obtain any additional examinations, investigations, explorations, tests and studies and obtain any additional information and data which pertain to the physical conditions (surface, subsurface and underground facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the work and which bidder deems necessary to determine its bid for performing and furnishing the work in accordance with the time, price and other terms and conditions of the contract documents.

On request in advance, County will provide each bidder access to the site to conduct such explorations and tests as each bidder deems necessary for submission of a bid. Bidder shall fill all holes, clean up and restore the site to its former condition upon completion of such explorations.

The lands upon which the work is to be performed, rights-of-way and easements for access thereto and other lands designated for use by Contractor in performing the work are identified in the contract documents. All additional lands and access thereto required for temporary construction facilities or storage of materials and equipment are to be provided by Contractor. Easements for permanent structures or permanent changes in existing structures are to be obtained and paid for by County unless otherwise provided in the contract documents.

**5. EXAMINATION OF CONTRACT DOCUMENTS**

The contract documents shall consist of the following:

1. Invitation for Bid
2. Instruction to Bidders
3. Contractor's Bid (including documentation accompanying the Bid and any post-bid documentation submitted prior to the Notice of Award)
4. Contract
5. Addenda which pertain to the Contract
6. The Bonds or other security
7. Any supplementary conditions or any and all written agreements amending or extending the work, time or price contemplated
8. The Plans and Specifications and Drawings as identified in the Contract
9. Certificates of Insurance
10. Other: \_\_\_\_\_

Each bidder shall thoroughly examine and be familiar with legal and procedural documents, general conditions, specifications, drawings and addenda (if any). The submission of a bid shall constitute an acknowledgment upon which County may rely that the bidder has thoroughly examined and is familiar with the contract documents. The failure or neglect of a bidder to receive or examine any of the contract documents shall in no way relieve that bidder from any obligation with respect to that bidder's bid or to the contract. No claim for additional compensation will be allowed which is based upon a lack of knowledge of any contract documents.

**6. INTERPRETATION OF CONTRACT DOCUMENTS**

No oral representations or interpretations will be made to any bidder as to the meaning of the contract documents. Any ambiguities, inconsistencies in the plans and specifications or other contract documents, or problems which are visible by an inspection of the site or review of the contract documents shall be resolved prior to bidding. Request for an interpretation shall be made in writing and delivered to County at least 10 days before the time announced for opening the proposals. Interpretations by County will be in the form of an addendum to the contract documents and, when issued, will be sent as promptly as is practical to all parties to whom the bid documents have been issued. All such addenda shall become part of the contract. County reserves the right to amend any contract language which it determines is ambiguous prior to award of the bid.

**7. ADDENDA**

Each bid shall include specific acknowledgment, in the space provided, of receipt of all addenda issued during the bidding period. Failure to so acknowledge will result in the bid being rejected as not responsive. The Contractor is responsible for verifying that all addenda have been received and for obtaining all addenda prior to submitting bids for the work.

Only questions answered by formal written addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

Addenda may also be issued to modify the bidding documents as deemed advisable by County.

Addenda will be mailed or delivered to all parties recorded as having received the bidding documents. No addenda will be issued later than four days prior to the date for receipt of bids except an addendum, if necessary, postponing the date for receipt of bids or withdrawing the request for bids.

**8. BIDS**

Bids shall be made on the blank forms prepared by County and included herein. Bidders may extract these pages from the book of specifications or submit the entire book. All bids shall give prices, both in writing and in figures, and shall be signed by the bidder or bidder's authorized representative with bidder's address and shall provide all other information requested on the bid form. If the bid is made by an individual, his or her name, signature and post office address must be shown; if made by a firm or partnership, the name and post office address of the firm or partnership must be shown; if made by a corporation, the bid shall show the name of the state under the laws of which the corporation is chartered, the name and post office address of the corporation, and the title of the person who signs on behalf of the corporation.

**9. SUBMISSION OF BIDS**

Bids shall be submitted at the time and place indicated in the Invitation for Bid and shall be included in a sealed envelope addressed to the Nevada County Purchasing Division. If mailed, the bids shall be addressed to:

**Submit Bids to: US Mail, Fed Ex, or UPS, etc. to:**  
Nevada County Purchasing Division  
Eric Rood Administrative Center  
950 Maidu Avenue  
Nevada City, CA 95959

**Hand Deliver to:**  
Nevada County Due to State mandated social distancing policy, Submittals are to be received & deposited at the designated table located in the Lobby of the Eric Rood Administrative Center.  
Eric Rood Administrative Center, 950 Maidu Avenue  
Nevada City, CA 95959

The bid shall be identified on the outside with the bidder's name, license number and address and with the **Project Title "Nevada County Bost Cottage Addition"**

Each bid shall be accompanied by the bid security if bid over \$25,000 and other required documents.

If the bid is sent by mail, the sealed envelope shall be enclosed in a separate mailing envelope with the notation "BID ENCLOSED" with the **Project Title "Nevada County Bost Cottage Addition"**

on the face thereof.

Bids shall be deposited at the designated location prior to the time and date for receipt of bids indicated in the Invitation for Bid, or the modified time and date indicated by addendum. Bids received after the time and date for receipt of bids will be returned unopened. Bidder shall assume full responsibility for timely delivery at the location designated for receipt of bids.

Oral, telephone, or telegraph bids are invalid and will not receive consideration. No bidder may submit more than one bid. Multiple bids under different names will not be accepted from one firm or association.

**10. PRE-BID CONFERENCE OR WALK-THROUGH**

A pre-bid conference or walk-through will be held at **9:00 a.m., Wednesday, May 12, 2021**, at the project site at **145 Bost Ave. Nevada City, CA. 95959**

Due to the State mandated social distancing policy, the County will conduct the Pre-Bid meeting in person however, all participants are required to be wearing face masks and maintain a 6-foot distance between all attendees. In addition, the County will host a virtual Pre-Bid meeting for those unable to attend in person. A link to the virtual meeting is provided below:

**Join on your computer or mobile app**

[Click here to join the meeting](#)

**Or call in (audio only) +1 530-414-9282, Phone Conference ID: 737 831 779#**



The representatives of County, any consultants and/or Project Engineer will be present to answer questions. Any questions which, in the opinion of County, cannot be answered by direct reference to the bidding documents will be answered by formal written addenda as outlined above.

The pre-bid conference or walk-through may include a tour of the site of the work conducted by representatives of County. All interested parties are invited to attend.

#### **11. BID PRICE**

The bid price shall include everything necessary for the completion of construction and fulfillment of the contract including, but not limited to, furnishing all materials, equipment, tools, plant and other facilities and all management, superintendence, labor and services, except as may be provided otherwise in the contract documents.

In the event of a difference between the price quoted in words and a price quoted in figures for the same quotation, the words shall be considered the amount bid. Discrepancies between the indicated sum or total of figures and the correct sum or total will be resolved in favor of the correct sum or total.

#### **12. BASIS OF BIDS**

The bidder shall submit both a lump sum price and prices for all unit cost items and alternatives shown on the bid form. Failure to comply may be cause for rejection.

Where specific quantities are given they are approximate only, being given as a basis for the comparison of bids, and the County of Nevada does not, expressly or by implication, warrant that the actual amount of work will correspond therewith, but reserves the right to increase or decrease the amount of any class or portion of the work or to omit portions of the work as may be deemed necessary or advisable by County. The amount of the bid for comparison purposes will be the total of all items. The total of unit basis items will be determined by extension of the item price bid on the basis of the estimated quantity set forth for the item.

The bidder shall set forth for each item of work, in clearly legible figures, an item price and a total for the item in the respective spaces provided for this purpose. In the case of unit basis items, the amount set forth under the "Total" column shall be the extension of the item price bid on the basis of the estimated quantity for the item.

In case of discrepancy between the item price and the total set forth for the item, the item price shall prevail; however, if the amount set forth as an item price is ambiguous, unintelligible or uncertain for any cause, or is omitted, or in the case of unit basis items is the same amount as the entry in the "Total" column, then the amount set forth in the "Total" column for the item shall prevail in accordance with the following:

- a. As to unit basis items, the amount set forth in the "Total" column shall be divided by the estimated quantity for the item and the price thus obtained shall be the item price.
- b. As to lump sum items, the amount set forth in the "Total" column shall be the item price.

In accordance with the provision of Section 6707 of the State Labor Code, each bidder shall list, in any bid item calling for trenching of 5 feet or more in depth, the amount contained in the proposal for adequate trench and excavation sheeting, shoring, and bracing or equivalent method for the protection of life and limb which shall conform to applicable Safety Orders.

#### **13. TAXES**

Bid prices shall include allowance for all federal, state and local taxes.

#### **14. CONTRACT TIME**

The date by which the work is to be completed (the contract time) is set forth in the contract documents.



**15. SUBSTITUTE MATERIAL AND EQUIPMENT**

The contract, if awarded, will be on the basis of material and equipment described in the drawings or specified in the specifications without consideration of possible substitute or "co-equal" items. Whenever it is indicated in the drawings or specified in the specifications that a substitute or "co-equal" item of material or equipment may be furnished or used by Contractor if acceptable to County, application for such acceptance will not be considered by County until after the effective date of the contract unless an addendum is issued to all bidders authorizing the use of a specified substitute. The procedure for submittal of any such application by Contractor and consideration by County is set forth in the contract documents.

**16. LIST OF SUBCONTRACTORS**

Each bid shall have listed on the form provided herewith the name and address of each subcontractor to whom the bidder proposes to sublet portions of the work in excess of one-half of one percent of the total amount of the bid or, in the case of bids for construction of streets or highways, including bridges, in excess of one-half of one percent of the Contractor's total bid or \$10,000, whichever is greater, per Public Contracts Code Section 4104. For the purpose of this paragraph, a subcontractor is defined as one who contracts with the Contractor to furnish materials and labor, or labor only for the performance of work at the site of the work.

County has the right to review the suitability and qualifications of any subcontractor or supplier proposed by the Contractor. As part of this review County may request an experience statement with pertinent information as to similar projects and other evidence of qualification for each such subcontractor, person and organization. If County, after due investigation, has reasonable objection to any proposed subcontractor, County may, before giving the notice of award, request the apparent successful bidder to submit an acceptable substitute without an increase in bid price. If the apparent successful bidder does not make such substitution, the contract shall not be awarded to such bidder, but Contractor's failure to make such substitution will not constitute grounds for sacrificing the bid security. Any subcontractor, other person or organization so listed and to whom County does not make written objection prior to the giving of the notice of award will be deemed acceptable to County subject to revocation of such acceptance after the effective date of the agreement as provided in the contract documents.

No Contractor shall be required to employ any subcontractor, other person or organization against whom Contractor has reasonable objection.

The Contractor may not change any subcontractor listed on its bid without written approval from County after a determination that the requirements of Public Contracts Code Section 4107 have been met.

**17. BID GUARANTY (BID BOND)**

Bid Guaranty (Bid Bond) is required on all bids over \$25,000. The bid shall be accompanied by a bid guaranty bond (bid bond) duly completed on the form provided herewith or a form which is substantially similar, by a guaranty company authorized to carry on business in the State of California, for payment to County in the sum of at least 10 percent of the total amount of the bid, or alternatively by a certified or cashier's check, payable to County in the sum of at least 10 percent of the total amount of the bid. A bid bond form which provides further payment of attorney's fees or which contains a termination date will not be considered to be "substantially similar". The amount payable to County under the guaranty bond, or the certified or cashier's check and the amount thereof, as the case may be, shall be forfeited to County as liquidated damages in case of a failure or neglect of the bidder to furnish, execute and deliver to County the required performance and payment bonds, evidence of insurance, and to enter into, execute and deliver to County the contract on the form provided herewith, within 5 days after being notified in writing by County that the award has been made and the agreement is ready for execution.

All bonds shall have a power of attorney authorizing the signature of the person authorized to sign on behalf of the Surety attached to the bond. The power of attorney signature and the principal's signature shall each (both) be notarized.

The bid bond shall name County as beneficiary and shall specify that the bond is valid for the bid opening of this project as scheduled in the Invitation for Bid.

**18. RETURN OF BID GUARANTEES**

Within 10 days after the bids are awarded, County will return the bid guarantees (other than bid bonds) accompanying the bids for bids not considered in making the award. All other bid guaranties will be held until the contract has been fully executed, after which they will be returned to the respective bidders whose bids they accompany.

**19. MODIFICATION OR WITHDRAWAL OF BIDS**

Bids submitted early may be modified or withdrawn by notice to the party receiving bids at the place and prior to the time designated for receipt of bids. Such notice shall be in writing over the signature of the bidder or be by telegram; if by telegram, written confirmation over the signature of bidder must have been mailed and postmarked on or before the date and time set for receipt of bids; it shall be so worded as not to reveal the amount of original bid. Bids may also be modified or withdrawn in person by the bidder or an authorized representative provided bidder can prove bidder's identity and authority. Withdrawn bids may be resubmitted up to the time designated for the receipt of bids provided that they are then fully in conformance with these instructions to bidders.

If, within 24 hours after bids are opened, any bidder files a duly signed written notice with County and promptly thereafter demonstrates to the reasonable satisfaction of County that there was a material and substantial mistake in the preparation of the bid, that bidder may withdraw his or her bid and the bid security will be returned. Thereafter, that bidder will be disqualified from further bidding on the work.

**20. OPENING OF BIDS**

Bids will be opened publicly and read aloud. An abstract of the amounts of the base bids and major alternates (if any) will be made available after the opening of bids.

**21. BIDS TO REMAIN OPEN**

All bids shall remain open and subject to acceptance for a period of **60** days from the date of opening, but County may, in County's discretion, release any bid and return the bid security prior to that date.

**22. POSTPONEMENT OF OPENING**

County reserves the right to postpone the date and time for opening of bids at any time prior to the date and time announced in the advertisement.

**23. AWARD OF CONTRACT**

The award of the contract, if awarded, will be made to the lowest responsive, responsible bidder whose bid complies with all the requirements stated herein. The lowest bidder will be the bidder whose total bid price for all phases of work is lowest. The County will determine after receipt of bids which phase or phases will be included in the contract based on the bid amounts for each respective phase as submitted by the lowest bidder. Within **60** days after the time of opening the bids, County will act either to accept a proposal or to reject all proposals. The acceptance of a proposal will be evidenced by a notice of award of contract in writing, delivered in person or by mail to the bidder whose proposal is accepted. No other act of County shall constitute acceptance of a bid. The award of contract shall obligate the bidder whose bid is accepted

to furnish a performance bond, payment bond and evidences of insurance (certificates of insurance and endorsements specified in the contract) and execute the agreement set forth in the contract documents.

County reserves the right to reject any and all bids and to waive any and all formalities, and the right to disregard all nonconforming, non-responsive, or conditional bids. County reserves the right to reject the bid of any bidder if County believes that it would not be in the best interest of the project to make an award to that bidder, whether because the bid is not responsive or the bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by County. County reserves the right to reject any bids which omit a bid on any one or more items on which bids are required; any bids which omit unit prices if unit prices are required; any bids in which unit prices are unbalanced in the opinion of County; any bid accompanied by insufficient or irregular bid security; and any bids from bidders who have previously failed to perform properly or to complete on time contracts of any nature.

It is County's intent to accept alternates (if any are accepted) in the order in which they are listed in the bid form, but County may accept them in any order or combination.

County may consider the qualifications and experience of subcontractors and other persons and organizations (including those who are to furnish the principal items of material or equipment) proposed for those portions of the work as to which the identity of subcontractors and other persons and organizations must be submitted as provided herein. Operating costs, maintenance considerations, performance data and guarantees of materials and equipment may also be considered by County.

If there is reason to believe that collusion exists among the bidders, none of the bids of the participants in such collusion will be considered, and County may likewise elect to reject all bids received.

County may conduct such investigations as County deems necessary to assist in the evaluation of any bid and to establish the responsibility, qualifications and financial ability of the bidders, proposed subcontractors and other persons and organizations to do the work in accordance with the contract documents to County's satisfaction within the prescribed time. County reserves the right to reject the bid of any bidder who does not pass any such evaluation to County's satisfaction.

If the contract is to be awarded, it will be awarded to the lowest bidder whose evaluation by County indicates to County that the award will be in the best interests of the project.

#### **24. SIGNING OF AGREEMENT**

When County gives a Notice of Award to the successful bidder, it will be accompanied by unsigned counterparts of the agreement and all other contract documents.

**Three (3)** copies of the contract documents will be prepared by County. All copies will be submitted to Contractor, and Contractor shall execute the contract, insert executed copies of the required bonds and power of attorney, and submit all copies to County within five **(5)** days. The date of execution of the contract shall be left blank for filling in by County.

#### **25. NOTICE TO PROCEED**

County shall give the successful bidder written notice to proceed with the work within **7** days of the execution of the contract. Notwithstanding any other provision of the contract, County shall not be obligated to accept or to pay for any work furnished by the Contractor prior to delivery of notice to proceed whether or not County has knowledge of the furnishing of such work.

#### **26. PERFORMANCE AND OTHER BONDS**

The contract documents set forth County's requirements as to performance and other bonds. When the successful bidder delivers the executed contract to County, it shall be accompanied by the required contract security. The bonds shall be provided on County's forms or on forms which are substantially similar. Notwithstanding any language contained in the bonds, County shall not be liable for attorney's fees either

for the enforcement of the bond or for any other action under this Contract. Bonds shall not contain any date of termination.

**27. CONTRACTUAL RESTRICTIONS**

No official of County who is authorized in such capacity and on behalf of County to negotiate, make, accept or approve, or to take part in negotiating, making, accepting, or approving any architectural, engineering, inspecting, construction or material supply contract or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part thereof. No officer, employee, architect, attorney, engineer, or inspector of or for County who is authorized in such capacity and on behalf of County who is in any legislative, executive, supervisory, or other similar function in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part thereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to the project.

**28. POSTING SECURITY IN LIEU OF RETENTION**

The Contractor may elect to receive 100% of payments due under this contract from time to time, without retention of any portion of the payment by the public agency, by depositing securities of equivalent value with County in accordance with the provisions of Section 22300 of the California Public Contract Code; except that no such substitution shall be allowed where federal money is funding the project and federal regulations or policies would prohibit such substitution of securities for the retention. Securities eligible for investment shall include those listed in Section 16430 of the California Government Code, or bank or savings and loan certificates of deposits. Such securities, if deposited by the bidder, shall be valued by County whose decision on the valuation of the securities shall be final. The bidder shall be the beneficial owner of any securities substituted for money withheld and shall receive any interest thereon.

**29. LIQUIDATED DAMAGES**

The County is authorized by Government Code Section 53069.85 to assess liquidated damages for delay. County refers bidders to the Contract for review of the liquidated damages provision to be included in this Contract.

**CHECKLIST OF DOCUMENTS ENCLOSED BY BIDDER**

Bidder shall acknowledge that he or she has enclosed all required Bidding Documents listed herein by signing his or her initials in "Bidder" column, after each item.

DOCUMENT	SIGNATURES	
	BIDDER	COUNTY REP.
1. BID FORM (signed)		
2. ACKNOWLEDGMENT OF ADDENDA		
3. BID SECURITY: Bid Bond for bids over \$25,000 (must be signed by corporate surety); or Cashier's Check; or Certified Check; or Cash		
4. EXPERIENCE STATEMENT FORM		
5. SUBCONTRACTOR LISTING (signed)		
6. BIDDER'S REPRESENTATIONS: (BIDDER'S QUALIFICATIONS, NONCOLLUSION DECLARATION)		

**BID FORM**  
(Nevada County Standard Form Bid Document)

BID TO THE COUNTY OF NEVADA FOR: **Nevada County Bost Cottage Addition**

Name of Bidder \_\_\_\_\_

The work to be done and referred to herein is in Nevada County, State of California, and shall be constructed in accordance with the Plans, Specifications (including the payment of not less than the wages rates set forth therein) and the Contract annexed hereto.

The work to be done is shown upon project documents entitled: **Nevada County Bost Cottage Addition**  
The undersigned, as bidder, declares that the only persons or parties interested in this bid as principals are those named herein; that this bid is made without collusion with any other person, firm, or corporation, and in submitting this bid, the undersigned bidder agrees that he or she has carefully examined the location of the proposed work, the annexed proposed form of contract, and the plans therein referred to and all other documents listed or incorporated in the bidding documents and contract documents; and bidder proposes, and agrees if this bid is accepted, that bidder will contract with the County of Nevada in the form of the copy of the contract annexed hereto, to provide all necessary machinery, tools, apparatus, and other means of construction, and to do all the work and furnish all the materials specified in the contract, in the manner and time therein prescribed, and according to the requirements of County as therein set forth, and that bidder will take in full payment therefor the following:

<b>Item No.</b>	<b>Item</b>	<b>Unit of Measure</b>	<b>Total</b>
1.	<b>Nevada County Bost Cottage Addition</b>	Lump Sum	

Total of Bid (in figures): \_\_\_\_\_

Total of Bid (in words): \_\_\_\_\_

The undersigned bidder agrees to furnish the required bonds or other security and to enter into a contract within the time specified in the Instructions to Bidders, and further agrees to complete all work covered by the bid, in accordance with all requirements of the contract.

Receipt of copies of the following addenda is hereby acknowledged.

<u>Addendum No.</u>	<u>Bidder's Signature</u>	<u>Date Acknowledged</u>
_____	_____	_____
_____	_____	_____

All addenda received have been considered in preparation of this bid.

Enclosed herewith are the Bid Form, Bid Bond or other security, Experience Statement, Subcontractor Listing and Bidder's Representations form.

In submitting this bid it is understood that the right is reserved by County to reject any and all bids, and it is understood that this bid may not be withdrawn during the period set forth in the Instructions to Bidders.

Envelopes containing bids must be marked as required by the Instructions to Bidders.

County reserves the right to reject any and all bids and to waive any irregularities in bids.



The amount of the bid for comparison purposes will be the total of all items. The total of unit basis items will be determined by extension of the item price bid on the basis of the estimated quantity set forth for the item.

Prices bid shall include overhead, profit and all applicable taxes.

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

A bid bond for bids over \$25,000 will accompany this bid in a sum of not less than ten percent (10%) of the total amount of the bid and shall be on a form approved by County or a form which is substantially similar, which is attached hereto.

If this bid shall be accepted and the undersigned shall fail to contract as aforesaid, and to give the performance bond and labor and material bond as required in the contract with a surety satisfactory to County within the number of days set forth in the Instructions to Bidders after receipt of notice that the contract has been awarded to the undersigned, County may, at its option, determine that the bidder has abandoned the contract and thereupon the award of the contract shall be null and void and the bidder and surety shall forfeit the security accompanying this bid to the County of Nevada.

Accompanying this bid is: Circle one: Bidder's Bond -- Cashier's Check -- Certified Check -- Cash

for \$ \_\_\_\_\_, an amount equal to ten percent (10%) of the total bid.

The names of individuals who are principals in any partnership, joint venture, business association or corporation in the foregoing bid are as follows:

\_\_\_\_\_  
\_\_\_\_\_

Licensed in accordance with an act providing for the registration of contractors, License No. \_\_\_\_\_

DATED: \_\_\_\_\_  
Authorized Signature of Bidder

PRINTED NAME OF AUTHORIZED REPRESENTATIVE: \_\_\_\_\_

BUSINESS ADDRESS: \_\_\_\_\_

PLACE OF RESIDENCE: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

CLASSIFICATION OF CONTRACTOR'S LICENSE: \_\_\_\_\_

EXPIRATION DATE OF CONTRACTOR'S LICENSE: \_\_\_\_\_

DIR# \_\_\_\_\_ FEDERAL TAX ID. NO.: \_\_\_\_\_

**NOTE:** If bidder is a corporation, the legal name of the corporation shall be set forth above together with the signature of the officer or officers authorized to sign contracts on behalf of the corporation; if bidder is a co-partnership, the true name of the firm shall be set forth above together with the signature of the partner

or partners authorized to sign contracts on behalf of the co-partnership; and if bidder is an individual, his or her signature shall be placed above. If a bidder is a joint venture, the documents must be signed by an authorized officer of each firm to the joint venture and shall include the California Contractor's License number of each partner to the joint venture. The signature of any attorney-in-fact must be notarized.



**BIDDER'S BOND**

STATE OF CALIFORNIA

COUNTY OF NEVADA

KNOW ALL PERSONS BY THESE PRESENT,

That we, \_\_\_\_\_ as principal, and \_\_\_\_\_ as surety, are held and firmly bound unto the County of Nevada in the sum of ten percent (10%) of the total amount of the bid of the principal above named, submitted by said principal to the County of Nevada for the work described below, for the payment of which sum in lawful money of the United States, well and truly to be made, to the County of Nevada, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents. In no case shall the liability of the surety hereunder exceed the sum of \$ \_\_\_\_\_

The condition of this obligation is such that whereas the principal has submitted the above-mentioned bid to the County of Nevada, as aforesaid, for certain construction specifically described as follows, for which bids are to be opened at Nevada City, California on \_\_\_\_\_, 20\_\_ for \_\_\_\_\_.

NOW, THEREFORE, if the aforesaid principal is awarded the contract, and within the time and manner required by the contract documents, after the prescribed forms are presented to him or her for signature, enters into a written Contract, in the prescribed form, in accordance with the bid, and files two bonds with the County of Nevada, one to guarantee faithful performance and the other to guarantee payment for labor and materials, as required by law, then this obligation shall be null and void; otherwise it shall be and remain in full force and effect.

Notice to Surety shall be provided at:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_.

_____ Seal	_____ Seal
_____ Seal	_____ Seal
_____ Seal	_____ Seal
Principal	Surety

**NOTE:** Signature of Surety shall be notarized. Power of attorney for surety with corporate seal affixed must be attached.

APPROVED AS TO FORM  
BY COUNTY COUNSEL

\_\_\_\_\_

## EXPERIENCE STATEMENT

The following outline is a record of the bidder's or subcontractor's recent experience in construction of a type similar in magnitude and character to that contemplated under this Contract. Additional numbered pages shall be attached to this page as required. Each page shall be headed "Experience Statement" and signed.

**FAILURE TO COMPLETE WILL RESULT IN BID DISQUALIFICATION**

1.) **PROJECT NAME:**

**DATE:**

**INSPECTOR NAME**

**PHONE #**

**CONTRACT AMOUNT:**

**WORK PERFORMED:**

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2.) **PROJECT NAME:**

**DATE:**

**INSPECTOR NAME**

**PHONE #**

**CONTRACT AMOUNT:**

**WORK PERFORMED:**

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3.) **PROJECT NAME:**

**DATE:**

**INSPECTOR NAME**

**PHONE #**

**CONTRACT AMOUNT:**

**WORK PERFORMED:**

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4.) **PROJECT NAME:**

**DATE:**

**INSPECTOR NAME**

**PHONE #**

**CONTRACT AMOUNT:**

**WORK PERFORMED:**

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\_\_\_\_\_  
Signature of Contractor

## SUBCONTRACTOR LIST

Listed hereunder is the name, Contractor's license number, the address of place of business, and the category of the work on the Contract for each subcontractor who will perform work or labor or render service to the undersigned bidder in or about the construction of the work hereinabove described, in excess of one-half of one percent (0.5%) of the total bid, if the Contract for the said work is awarded to the undersigned.

(Attach additional sheet, if necessary, and note attachment on this page.)

Name of Subcontractor	Contractor's License #	DIR Registration Number	Location of Business	Category of Work To Be Performed	% of Total Work

Signature of Contractor/Bidder: \_\_\_\_\_

*(THE BIDDER'S EXECUTION ON THE SIGNATURE PORTION OF THIS BID FORM SHALL  
ALSO CONSTITUTE AN ENDORSEMENT AND EXECUTION OF THOSE CERTIFICATIONS  
WHICH ARE A PART OF THIS BID)*

**BIDDER'S REPRESENTATIONS**

I, the undersigned, declare as follows:

- 1. BIDDER'S QUALIFICATIONS: That neither I nor a company of which I am more than 50% owner have been disqualified from bidding, removed from a public works construction project or otherwise been prevented from bidding because of a violation of law or a safety regulation.

Further, I declare under penalty of perjury that neither I nor a company of which I am more than a 50% owner have had more than one final, unappealable finding of contempt of court by a Federal court within the immediately preceding two year period because of failure to comply with an order of the Federal court (Public Contract Code Section 10232), which orders the Contractor to comply with an order of the National Labor Relations Board.

Further, I declare under penalty of perjury that I have not been convicted by any court of any charge of fraud, bribery, collusion, conspiracy, or any other act in violation of state or federal antitrust law in connection with the bidding upon, award of, or performance of any public works contract.

- 2. WORKER'S COMPENSATION CERTIFICATION (LABOR CODE SECTION 1861): That I am aware of the provisions of Section 3700 of the Labor Code of the State of California, which requires every employer to be insured against liability for Worker's 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.

- 3. NONCOLLUSION DECLARATION: I, the undersigned, declare that I am the \_\_\_\_\_ of \_\_\_\_\_ the party making the foregoing bid that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: \_\_\_\_\_

BIDDER: \_\_\_\_\_

COUNTY OF NEVADA  
STATE OF CALIFORNIA

SAMPLE  
CONTRACT  
FOR

**Nevada County Bost Cottage Addition**

---

(Date)

(Standard Public Works Contract)

**COUNTY OF NEVADA  
STATE OF CALIFORNIA  
CONTRACT**

THIS CONTRACT, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the COUNTY OF NEVADA, hereinafter referred to as "County," and \_\_\_\_\_, hereinafter referred to as Contractor.

WITNESSETH: That the County and Contractor, for the consideration hereinafter mentioned, agree as follows:

**ARTICLE I: DEFINITIONS**

Wherever used in these general conditions or in the other contract documents the following terms have the meanings indicated which are applicable to both the singular and plural thereof:

Act of God

"Act of God" means an earthquake or flood, or other cataclysmic phenomenon of nature. A rain, windstorm, high water or other natural phenomenon of unusual intensity for the specific locality of the work, which might reasonably have been anticipated from historical records of the general locality of the work, shall not be construed as an Act of God.

Addenda

Written or graphic instruments issued prior to the opening of bids which clarify, correct or change the bidding documents.

Application for Payment

The form accepted by County which is to be used by Contractor in requesting progress or final payments and which is to include such supporting documentation as is required by the contract documents.

Calendar Days

Consecutive days of the month, including Saturdays, Sundays and holidays. A calendar day shall be the 24 hours running from midnight to the next midnight.

Change Order

A document which is signed by Contractor and County and authorizes an addition, deletion or revision in the work, or an adjustment in the contract price or the contract time, issued on or after the effective date of the contract.

Contract Documents

The written agreement covering the performance of the work and the furnishing of labor, materials and equipment in construction of the work. The agreement shall be construed to include the:

1. Invitation to Bid
2. Instruction to Bidders
3. Contractor's Bid (including documentation accompanying the Bid and any post-bid documentation submitted prior to the Notice of Award)
4. Contract
5. Addenda which pertain to the Contract
6. The Bonds
7. Any supplementary conditions or any and all written agreements amending or extending the work, time or price contemplated
8. The Plans and Specifications and Drawings as identified in the Contract

- 9. Certificates of Insurance
- 10. Other: \_\_\_\_\_

Contract Price

Either the total lump sum bid of the Contractor or the total of the unit price bids of the Contractor extended based upon the estimated quantities set forth in the bid, or combinations thereof, plus or minus any adjustments made in accordance with the contract.

Contractor

The person or persons, co-partnership, joint venturers or corporation who have entered into a contract with County as party or parties of the second part and/or their legal representatives.

Contractor's Plant and Equipment

Everything, except labor, brought onto the site by the Contractor in order to carry out the work, but not to be incorporated in the work.

County

The County of Nevada and any person or persons to whom the power belonging to County shall be duly designated, including but not limited to an engineer or architect. Only those persons designated in writing by the County Executive Officer or Director of the department overseeing the project shall have authority to act on behalf of County.

Day

A calendar day of 24 hours, except when preceded by "working", as defined below.

Defective

An adjective which when modifying the word "work" refers to work that is unsatisfactory, faulty or deficient, or does not conform to the contract documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the contract documents, or has been damaged (unless responsibility for the protection thereof has been assumed by County).

Directed

"Directed", "designated", "permitted", "required", "accepted", and words of like import, wherever and in whatever manner used means as directed, designated, permitted, required, and accepted by County.

Director

"Director" shall mean the Director of the department overseeing the project.

Drawings

The drawings which show the character and scope of the work to be performed and which have been prepared or approved by County and are referred to in the contract documents.

Effective Date of the Contract

The date indicated in the Contract on which it becomes effective, but if no such date is indicated it means the date on which the Contract is signed and delivered by the last of the two parties to sign and deliver.

Engineer

The person specifically designated in writing by County to function as staff adviser and/or consultant to County on engineering matters relating to this contract. Only those persons designated by County, in writing, shall have authority to act for County in the administration of this contract. Said written designation shall be signed by the County Executive Officer or Director of the department overseeing the project.

Equal

A device, material, equipment, technique or method that conforms to the intent of that specified or indicated on the Drawing.

Field Order

A written order issued by County which orders minor changes in the work but which does not involve a change in the contract price or the contract time.

Final Acceptance, Date of

The date when all final punch list items are corrected, the final inspection has been completed and when the governing body and/or funding agency formally accepts the project as complete. This date will be used to establish the start date of the one-year warranty period for the contract.

Laboratory

The designated testing laboratory authorized by County to test materials and work involved in the contract.

Lien

Any claim by a person entitled to file a stop notice pursuant to the provisions of California Civil Code Sections 3179, et seq.

Notice of Award

The written notice by County to the apparent successful bidder stating that upon compliance by the apparent successful bidder with the conditions precedent enumerated therein, within the time specified, County will sign and deliver the Contract.

Notice to Proceed

A written notice given by County to Contractor fixing the date on which the contract time will commence to run and on which Contractor shall start to perform Contractor's obligations under the Contract Documents.

Partial Completion

Placing a portion of the work in service for the purpose for which it is intended (or a related purpose) before reaching completion of all the work.

Person

Includes firms, companies and corporations.

Project

The total construction which is required by the Contract Documents which may be all of the work or a part as indicated in the Contract Documents.

Schedule of Values

A list of divisions of the total scope of work under the contract made by the Contractor and approved by the County for purposes of progress payments.

Shall

"Shall" or "will", whenever used, is mandatory.

Shop Drawings

All drawings, diagrams, illustrations, schedules and other data which are specifically prepared by or for Contractor to illustrate some portion of the work and all product data illustrations, brochures, standard schedules, performance charts, instructions, diagrams, samples, and other information prepared by a supplier and submitted by Contractor to illustrate material or equipment for some portion of the work.

Specifications

Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the work and certain administrative details applicable thereto.

Standard Specifications

Specifications which are authored and authorized by a particular industry or agency which may be incorporated by reference. Where so incorporated, they are incorporated for use of technical data and specifications only. If there is a conflict between the standard specifications and express terms of this contract, the provisions set forth in the contract shall prevail.

Subcontractor

An individual, firm or corporation having a direct contract with Contractor or with any other subcontractor for the performance of a part of the work at the site.

Substitute



A device, material, equipment, technique or method of construction that differs from that intended or indicated on the Drawings.

Sufficient

"Sufficient", "necessary", "proper", "acceptable", "satisfactory", "desirable", and words of like import, wherever and in whatever manner used, with or without reference to the County, means sufficient, necessary, proper, acceptable, satisfactory and desirable in the judgment of the County.

Supplementary Conditions

An addition to the Contract Documents which supplements the main Contract.

Underground Facilities

All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities which have been installed underground to furnish any of the following services or materials: electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, sewage and drainage removal, traffic or other control systems or water.

Unit Price Work

Work to be paid for on the basis of unit prices.

Work

The entire completed construction or the various separately identifiable parts thereof required to be furnished under the Contract Documents. Work is the result of performing services, furnishing labor and furnishing and incorporating materials and equipment into the construction, all as required by the Contract Documents.

Working Day

A working day is any day except Saturdays, Sundays, or legal holidays and days on which the Contractor is specifically required by special provisions, by any labor contract, or by law, to suspend construction operations. Also excepted is any day on which the Contractor is prevented by inclement weather conditions resulting therefrom, or other phenomena of nature from proceeding with at least seventy-five percent (75%) of the normal labor and equipment force for at least five (5) hours toward completion of the current controlling item on the accepted project schedule. Should the conditions prevent the work from beginning at the usual starting time, or prevent the Contractor from proceeding with seventy-five percent (75%) of the normal labor and equipment force for a period of at least five (5) hours, and the crew is dismissed as a result thereof, Contractor will not be charged for a working day whether or not conditions change so that the major portion of the day could be considered to be suitable for work on the controlling item.

**ARTICLE II: SCOPE OF WORK**

Contractor, at Contractor's own proper costs and expense, shall do all the work and furnish all the materials necessary to construct and/or reconstruct and complete in good workmanlike and substantial manner and to the satisfaction of the County, the following: **Add an addition to the existing Bost Cottage according to the plans and specifications, including but not limited to: One new ADA restroom, demolition, excavation, concrete, electrical, plumbing, HVAC, insulation, drywall, siding, paint, doors, windows, flooring, roofing, deck, ADA path of travel and site accessibility improvements**, which shall be constructed in accordance with this Contract, the Invitation to Bid, the Instruction to Bidders, the Plans and Specifications and Drawings, and all other contract documents attached hereto and which are incorporated herein by reference and made a part of this Contract as if set forth in full.

**ARTICLE III: CONTRACT TIME**

Contractor will start work to be performed under this Contract within 10 days after the Contractor is instructed in writing by County to proceed with the work. Said work shall be diligently prosecuted to completion. All the work shall be completed and ready for acceptance within 45 calendar days from the

date of the mailing of the Notice to Proceed. When any period of time is referred to in the contract documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

#### **ARTICLE IV: CHANGE OF CONTRACT TIME**

##### Change by Change Order

The contract time may only be changed by change order. A request for an extension or shortening of the contract time shall be based on written notice delivered by the party making the request to County promptly after the occurrence of the event giving rise to the request and stating the general nature of the request. Notice of the extent of the request with supporting data shall be delivered to County and shall be accompanied by the written statement that the adjustment requested is the entire adjustment to which the requesting party has reason to believe it is entitled as a result of the occurrence of said event. No request for an adjustment in the contract time will be valid if not submitted in accordance with the requirements of this paragraph.

##### Contract Time May Be Extended

The contract time will be extended in an amount equal to time lost due to delays beyond the control of Contractor if the request is made therefor as provided in this Article. Such delays shall include, but not be limited to, acts of neglect by County or others performing additional work, or to fires, floods, labor disputes, epidemics, abnormal weather conditions or acts of God.

##### Delay and Price Change

All time limits stated in the contract documents are of the essence. There shall be no adjustment of contract price due to delays which are not caused by the County, including but not limited to delays for fires, floods, labor disputes, epidemics, abnormal weather conditions or acts of God and the acts of any other person or entity. The provisions of this Article shall not exclude recovery for damages for delay which is caused by the County.

##### Delays in Completion of the Work

1. Notice of Delays: Whenever the Contractor foresees any delay in the prosecution of the work, and in any event immediately upon the occurrence of any delay which the Contractor regards as unavoidable, Contractor shall notify County in writing of the probability of the occurrence of such delay and its cause in order that County may take immediate steps to prevent, if possible, the occurrence or continuance of the delay or, if this cannot be done, may determine whether the delay is to be considered avoidable or unavoidable, how long it continues, and to what extent the prosecution and completion of the work are to be delayed thereby. It will be assumed that any and all delays which have occurred in the prosecution and completion of the work have been avoidable delays, except such delays as shall have been called to the attention of County at the time of their occurrence and found by County to have been unavoidable. The Contractor shall make no requests for extensions of time as to delay not called to the attention of County at the time of its occurrence.
2. Avoidable Delays: Avoidable delays in the prosecution or completion of the work shall include all delays which in the opinion of County would have been avoided by the exercise of care, prudence, foresight and diligence on the part of the Contractor or Contractor's subcontractors.
3. Unavoidable Delays: Unavoidable delays in the prosecution or completion of the work shall include all delays which, in the opinion of County, result from causes beyond the control of the Contractor and which could not have been avoided by the exercise of care, prudence, foresight and diligence on the part of the Contractor or the subcontractors and/or any suppliers. Delay in completion due to contract modifications ordered by County and unforeseeable delays in the completion of work or interference by other contractors employed by County will be considered unavoidable delays insofar as they interfere with the Contractor's completion of the work.

Extension of Time

1. Avoidable Delays: In case the work is not completed in the time specified, including such extensions of time as may have been granted for unavoidable delays, the Contractor will be assessed damages for delay in accordance with the liquidated damages provision. The County, however, shall have the right to grant an extension of time for avoidable delay if it is deemed in County's best interest to do so. During such extension of time, the Contractor will be charged for engineering and inspection services and other costs but will not be assessed damages for the delay.
2. Unavoidable Delays: For delays which County considers to be unavoidable, the Contractor shall, pursuant to Contractor's application, be allowed an extension of time beyond the time herein set forth, proportional to such delay or delays, in which to complete the contract. During such extension of time, neither extra compensation for engineering and inspection provided nor damages for delay will be charged to the Contractor.

Liquidated Damages

County and Contractor recognize that time is of the essence and that County will suffer financial loss if the work is not completed within the time specified above, plus any extensions thereof allowed in accordance with this contract. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by County if the work is not completed on time. Accordingly, instead of requiring any such proof, and due to impracticality and difficulty of ascertaining exact damages caused by delay, County and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay County of Nevada \$100 for each day that expires after the time specified above for completion. Such damages shall only be payable by Contractor to County if the delay is a result of the failure of Contractor to timely perform on its part and not occasioned by the County or any State or Federal agency. In case of joint responsibility for delay in the final completion of the work, where two or more separate contracts are in force at the same time and cover work at the same site, liquidated damages assessed against any one Contractor will be based upon the individual responsibility of that Contractor for the delay as determined by, and in the judgment of, County. County shall have the right to deduct the liquidated damages from any money in its hands, otherwise due, or to become due, to Contractor, or to sue for and recover compensation for damages for nonperformance of this contract within the time stipulated. It is acknowledged that the subject contract is a public project which is subject to the provisions of the Public Contracts Code. Accordingly, County has determined and the Contractor acknowledges that the liquidated damages as established herein are governed by the provisions of Government Code Section 53069.85 and are predicated upon the reasonable damages accruing to County stemming from any delay in the completion of this project.

**ARTICLE V: CONTRACT PRICE**

County shall pay Contractor for performance of the work in accordance with the Contract Documents in current funds as follows: \_\_\_\_\_ Dollars (\$\_\_\_\_\_)

**ARTICLE VI: CHANGE OF CONTRACT PRICE**

Contract Price

The contract price constitutes the total compensation (subject to authorized adjustments) payable to Contractor for performing the work. All duties, responsibilities and obligations assigned to or undertaken by Contractor shall be at Contractor's expense without change in the contract price.

Change by Change Order

The contract price may only be changed by a written change order. Any request for an increase or decrease in the contract price shall be based on written notice delivered by the party making the request to the other party prior to the commencement of any extra work. Said request shall state the exact nature of the request.

Data regarding any change shall be delivered by Contractor prior to commencing extra work and shall be accompanied by Contractor's written statement that the amount requested covers all amounts (direct, indirect and consequential) to which the Contractor is entitled as a result of the extra work to be done. If said request is granted, County will issue a written change order therefor. No request for an adjustment in the contract price will be valid if not submitted in advance and in accordance with this paragraph.

#### Determination of Change in Contract Price

The value of any work covered by a change order or of any request for an increase or decrease in the contract price shall be determined in one of the following ways:

1. Where the work involved is covered by unit prices contained in the contract documents, by application of unit prices to the quantities of the items involved (subject to the provisions regarding unit price work set forth below).
2. By mutual agreement, and if there is no mutual agreement, no. 3 directly below shall apply.
3. On the basis of the cost of the work determined as provided below plus a Contractor's fee for overhead and profit as provided below.

#### Cost of the Work

The term "cost of the work" means the sum of all costs necessarily incurred and paid by Contractor in the proper performance of the extra work required or permitted under a change order. Except as otherwise may be agreed to in writing by County, such costs shall be in amounts no higher than those prevailing in the locality of the project and shall include only the following items:

1. Payroll costs for employees in the direct employ of Contractor in the performance of the work under schedules of job classifications agreed upon by County and Contractor. Payroll costs for employees not employed full time on the work shall be apportioned on the basis of their time spent on the work. Payroll costs shall include salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, sick leave, vacation and holiday pay applicable thereto. Such employees shall include superintendents and foremen at the site. The expenses of performing work after regular working hours, on Saturday, Sunday or legal holidays, shall be included in the above to the extent authorized by County in writing.
2. Cost of all materials and equipment furnished and incorporated in the work, including costs of transportation and storage thereof, and suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless County deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to County. All trade discounts, rebates and refunds and all returns from sale of surplus materials and equipment shall accrue to County, and Contractor shall make provisions so that they may be obtained.
3. Payments made by Contractor to the subcontractors for work performed by subcontractors. If required by County, Contractor shall obtain competitive bids from subcontractors acceptable to Contractor and shall deliver such bids to County who will then determine which bids will be accepted. If a subcontract provides that the subcontractor is to be paid on the basis of cost of the work plus a fee, the subcontractor's cost of the work shall be determined in the same manner as Contractor's cost of the work. All subcontracts shall be subject to the other provisions of the contract documents insofar as applicable.
4. Costs of special consultants (including engineers, architects, testing laboratories, surveyors, and accountants) employed for services specifically, and only, related to the work.
5. Supplemental costs including the following:
  - a. The proportion of necessary transportation, travel and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the work.

- b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workers, which are consumed in the performance of the work, and cost, less market value of such items used but not consumed which remain the property of Contractor.
- c. Rentals of all construction equipment and machinery and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by County, and the costs of transportation, loading, unloading, installation, dismantling and removal thereof, all in accordance with terms of said rental agreements. The rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for the work.
- d. Sales, consumer, use or similar taxes related to the work, and for which Contractor is liable, imposed by laws and regulations.
- e. Deposits lost for causes other than negligence of Contractor, any subcontractor or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
- f. Losses and damages (and related expenses), not compensated by insurance or otherwise, to the work or otherwise sustained by contractor in connection with the performance and furnishing of the work (except losses and damages within the deductible amounts of property insurance established by County), provided they have resulted from causes other than the negligence of Contractor, any subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of County. No such losses, damages and expenses shall be included in the cost of the work for the purpose of determining Contractor's fee. If, however, any such loss or damage requires reconstruction and Contractor is placed in charge thereof, Contractor shall be paid for services a fee proportionate to that stated below under Contractor's fee.
- g. The cost of utilities, fuel and sanitary facilities at the site.
- h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the site, expressage and similar petty cash items in connection with the work.
- i. Cost of premiums for additional bonds and insurance required because of changes in the work and premiums for property insurance coverage within the limits of the deductible amounts established by County in this contract.

Not Included in Cost of the Work

The term "cost of the work" shall not include any of the following:

1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks and other personnel employed by Contractor whether at the site or in Contractor's principal or a branch office for general administration of the work and not specifically included in the agreed upon schedule of job classifications referred to in this contract or specifically covered above under costs of special consultants, all of which are to be considered administrative costs covered by the Contractor's fee.
2. Expenses of Contractor's principal and branch offices other than Contractor's office at the site.
3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the work and charges against Contractor for delinquent payments.
4. Cost of premiums for all bonds and for all insurance whether or not Contractor is required by the contract documents to purchase and maintain the same (except for the cost of premiums specifically covered above).



5. Costs due to the negligence of Contractor, any subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective work, disposal of materials or equipment wrongly supplied and making good any damage to property.
6. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included herein.

#### Contractor's Fee

The Contractor's fee allowed to Contractor for overhead and profit shall be determined by a fee based on the following percentages of the various portions of the cost of the work:

1. For all allowable costs of the work incurred under the paragraphs dealing with payrolled employees and costs of materials and equipment, the Contractor's fee shall be fifteen percent;
2. For all allowable costs of the work incurred under the paragraph dealing with work done by subcontractors, the Contractor's fee shall be five percent; and if a subcontract is on the basis of cost of the work plus a fee, the maximum allowable to Contractor on account of overhead and profit of all subcontractors shall be fifteen percent, for a total add-on of twenty percent.
3. No fee shall be payable on the basis of costs itemized under paragraphs dealing with special consultants, supplemental costs and/or costs not included in cost of the work.
4. The amount of credit to be allowed by Contractor to County for any such change which results in a net decrease in cost will be the amount of the actual net decrease plus a deduction in Contractor's fee by an amount equal to ten percent of the net decrease; and
5. When both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change.

#### Cost Breakdown

Whenever the cost of any work is to be determined as set forth herein, Contractor will submit, in form acceptable to County, an itemized cost breakdown together with supporting data.

#### Cash Allowances

It is understood that Contractor has included in the contract price all allowances so named in the contract documents and shall cause the work so covered to be done by such subcontractors or suppliers and for such sums within the limit of the allowances as may be acceptable to County. Contractor agrees that:

1. The allowances include the cost to the Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the site, and all applicable taxes; and
2. Contractor's cost for unloading and handling on the site, labor, installation costs, overhead, profit and other expenses contemplated for the allowances have been included in the contract price and not in the allowances. No demand for additional payment on account of any thereof will be valid.

Prior to final payment, an appropriate change order will be issued to reflect actual amounts due Contractor on account of work covered by allowances, and the contract price shall be correspondingly adjusted.

#### Unit Price Work

Where the contract documents provide that all or part of the work is to be unit price work, initially the contract price will be deemed to include for all unit price work an amount equal to the sum of the established unit prices for each separately identified item of unit price work times the estimated quantity of each item as indicated in the contract documents. The estimated quantities of items of unit price work are not guaranteed and are solely for the purpose of comparison of bids and determining an initial contract price. Determinations of the actual quantities and classifications of unit price work performed by Contractor will be made by County. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item. Except for items shown on the bid sheet or in the specifications as "contingency" items where no additional amounts will be allowable, where the quantity of any item of unit price work performed by Contractor differs more than 25

percent from the estimated quantity of such item indicated in the contract documents and there is no corresponding adjustment with respect to any other item of work, and if either party believes that it has incurred additional expense or reduced cost as a result thereof, either party may make a claim for an increase or decrease in the contract price if the parties are unable to agree as to the amount of any such increase or decrease.

#### Final Pay Quantities

When the estimated quantities for a specific portion of the work are designated on the plans as final pay quantities, said estimated quantities shall be the final quantities for which payment for such specific portion of the work will be made, unless the dimensions of said portions of the work shown on the plans are revised by the Engineer. If such dimensions are revised, and such revisions result in an increase or decrease in the quantities of such work, the final quantities for payment will be revised in the amount represented by the changes in the dimensions. The estimated quantities for such specific portion of the work shall be considered as approximate only and no guarantee is made that the quantities which can be determined by computations, based on the details and dimensions shown on the plans, will equal the estimated quantities. No allowance will be made in the event that the quantities based on computations do not equal the estimated quantities.

When portions of an item have been designated on the plans as final pay quantities, portions not so designated will be measured and paid for in accordance with the applicable provisions of these specifications and the special provisions.

In case of a discrepancy between the quantities shown on the plans as final pay quantities and the quantity of the same item shown in the Engineer's Estimate, payment will be based on the final pay quantities shown on the plans.

### **ARTICLE VII: PAYMENTS TO CONTRACTOR**

#### Source of Funds

The source of funding by the County for this work shall be: 0101-10801-416-1000/540300

#### Schedule of Values

The schedule of values established for the work will serve as the basis for progress payments and will be incorporated into a form of application for payment acceptable to County. Progress payments on account of unit price work will be based on the number of units completed.

#### Invoices

Invoices or applications for payment to the County shall be detailed and shall contain full documentation of all work performed and all reimbursable expenses incurred. Where the scope of work on the contract is divided into various tasks, invoices shall detail the related expenditures accordingly. Labor expenditures need documentation to support time, subsistence, travel and field expenses. No expense will be reimbursed without adequate documentation. This documentation will include, but not be limited to, receipts for material purchases, rental equipment and subcontractor work.

#### Progress Payment

Once each month County shall cause an estimate to be made covering the work completed as of the date of the estimate. No materials shall be paid for until incorporated into the work. If, however, County reaches an agreement with Contractor to pay for materials and equipment not yet incorporated into the work due to some special circumstances, then Contractor must show that the materials or equipment were delivered and are suitably stored at the site or at another location agreed to in writing. In that event, the payment shall be based on a bill of sale, invoice or other documentation submitted by Contractor and warranting that County has received the materials and equipment free and clear of all liens, charges, security interests and encumbrances (which are hereinafter referred to as "liens") and evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect County's interest therein, all of which will be satisfactory to County. The amount of retention with respect to progress payments will be five percent (5%).

### Amounts of Progress Payments

Prior to completion, progress payments will be in an amount equal to:

1. Ninety-five percent (95%) of the work completed, and
2. Where applicable pursuant to the above, ninety percent (90%) of materials and equipment not incorporated in the work but delivered and suitably stored, less in each case the aggregate of payments previously made.
3. Thirty-five days after recording of the Notice of Completion but not later than 60 days after completion of the work as defined in Public Contract Code section 7107, and upon Contractor providing all required documentation, County will pay an amount sufficient to increase total payments to Contractor to one hundred percent (100%) of the contract price, less such amounts as County shall determine in accordance with this contract. County reserves the right to retain such funds as it shall determine in accordance with the contract documents to complete the work.
4. The Contractor may elect to receive 100% of payments due under this contract from time to time, without retention of any portion of the payment by the public agency, by depositing securities of equivalent value with County in accordance with the provisions of Section 22300 of the California Public Contract Code; except that no such substitution shall be allowed where federal money is funding the project and federal regulations or policies would prohibit such substitution of securities for the retention. Securities eligible for investment shall include those listed in Section 16430 of the California Government Code, or bank or savings and loan certificates of deposits. Such securities, if deposited by the bidder, shall be valued by County whose decision on the valuation of the securities shall be final. The bidder shall be the beneficial owner of any securities substituted for money withheld and shall receive any interest thereon.

### Contractor's Warranty of Title

Contractor warrants and guarantees that title to all work, materials and equipment covered by any application for payment, whether incorporated in the project or not, will pass to County no later than the time of payment free and clear of all liens.

### Payment of Progress Payment

County will submit each progress pay estimate to Contractor. Upon receipt back from Contractor of a signed copy of the pay estimate, County shall process the pay estimate for payment. The amount approved by County will become due thirty (30) days after receipt of the signed progress pay estimate. Said payment shall be made by County to Contractor unless County has knowledge of claims or liens filed in connection with the work.

Pursuant to Public Contract Code Section 20104.50, if the County fails to make any progress payment within thirty (30) days after receipt of an undisputed and properly submitted payment request it shall pay interest to Contractor at the legal rate set forth in subdivision (a) of Section 685.010 of the Code of Civil Procedure. "Progress payment" for purposes of this paragraph includes all payments due Contractor except that portion of the final payment designated by the contract as retention earnings.

Also, pursuant to Public Contract Code Section 20104.50, each payment request shall be reviewed by County as soon as practicable after receipt for the purpose of determining that the payment request is a proper payment request. Any payment request determined not to be a proper payment request suitable for payment shall be returned to Contractor as soon as practicable, but not later than seven (7) days after receipt. A request returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper. The number of days available to County to make a payment without incurring interest pursuant to Public Contract Code Section 20104.50 shall be reduced by the number of days by which County exceeds the seven (7) day return requirement. A payment request shall be considered properly executed if funds are available for payment of the payment request, and payment is not delayed due to an audit inquiry by the financial officer of the County.



#### County's Recommendation of Payment

By County's recommending any payment, Contractor cannot conclude that County represents that exhaustive or continuous on-site inspections have been made to check the quality or the quantity of the work in the contract documents or that there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by County or County to withhold payment to Contractor.

#### County May Refuse to Make Payment

County may refuse to make payment of the full amount or any part if, in County's opinion, it would be incorrect to make such payment. County may also refuse to make any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously recommended, to such extent as may be necessary in County's opinion to protect County from loss because:

1. The work is defective, or completed work has been damaged requiring correction or replacement,
2. The contract price has been reduced by written amendment or change order,
3. Contractor has been required to correct defective work or complete work, or
4. Of County's actual knowledge of the occurrence of any of the events enumerated in paragraphs relating to suspension of work and termination.

County may refuse to make payment of the full amount because claims have been made against County on account of Contractor's performance or furnishing of the work or liens have been filed in connection with the work or there are other items entitling County to a set-off against the amount recommended, but County must give Contractor immediate written notice stating the reasons for such action.

#### Completion and Final Inspection

When Contractor considers the entire work ready for its intended use, Contractor shall notify County in writing that the entire work is completed. Within a reasonable time thereafter, County and Contractor shall make an inspection of the work to determine the status of completion. If County does not consider the work complete, County will notify Contractor in writing giving the reasons therefor. If County considers the work incomplete, County will prepare and deliver a list of items to be completed or corrected before final payment. Contractor shall immediately take such measures as are necessary to complete or correct the listed items.

#### Acceptance and Final Application for Payment

After Contractor has completed all such measures to remedy deficiencies to the satisfaction of County and delivered all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, marked-up record documents, property owner's releases and other documents, all as required by the contract documents, and after County has indicated that the work is acceptable, Contractor may make application for final payment. The final application for payment shall be accompanied by all documentation called for in the contract documents, together with complete and legally effective receipts, releases or waivers (satisfactory to County) from all subcontractors or material suppliers and an affidavit of Contractor that the releases and receipts include all labor, services, material and equipment for which a lien could be filed, and that all payrolls, material and equipment bills, and other indebtedness connected with the work for which County or County's property might in any way be responsible, have been paid or otherwise satisfied; and consent of the surety, if any, to final payment. If any subcontractor or supplier fails to furnish a release or receipt in full, or if a stop notice has been filed, Contractor may furnish a bond or other collateral satisfactory to County to indemnify County against any lien.

#### Final Payment

If, on the basis of County's review of the final application for payment and accompanying documentation, all as required by the contract documents, County is satisfied that Contractor's obligations under the contract documents have been fulfilled, County will, within seven (7) days after receipt of the final application for payment, process the application for payment. Otherwise, County will return the application to Contractor, indicating in writing the reasons for refusing to make final payment, in which case Contractor shall make the necessary corrections and resubmit the application. Thirty-five days after presentation to

County of the application and accompanying documentation, in appropriate form and substance, but no later than 60 days after completion of the project as defined in Public Contract Code section 7107, or thirty-five (35) days after recording of a Notice of Completion, whichever date is later, the full retention will become due and will be paid by County to Contractor.

#### Delay in Completion Through No Fault of Contractor

If, through no fault of Contractor, final completion of the work is significantly delayed and if County so confirms, County shall, upon receipt of Contractor's final application for payment, and without terminating the Contract, make payment of the balance due for that portion of the work fully completed and accepted. If the remaining balance to be held by County for work not fully completed or corrected is less than the retainage stipulated in the contract, and if the appropriate bonds have been furnished, the written consent of the surety to the payment of the balance due for that portion of the work fully completed and accepted shall be submitted by Contractor to County with the application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

#### Contractor's Continuing Obligation

Contractor's obligation to perform and complete the work in accordance with the contract documents shall be absolute. Neither the issuance of a certificate of substantial completion, nor any payment by County to Contractor under the contract documents, nor any use or occupancy of the work or any part thereof by County, nor any act of acceptance by County nor any failure to do so, nor any review and approval of a shop drawing or sample submission, nor the issuance of a notice of acceptability, nor any correction of defective work by County will constitute an acceptance of work not in accordance with the contract documents or a release of Contractor's obligation to perform the work in accordance with the contract documents.

#### Waiver of Claims

The making and acceptance of final payment will constitute:

1. A waiver of all claims by County against Contractor, except claims arising from unsettled liens, or from defective work appearing after final inspection or from failure to comply with the contract documents or the terms of any special guarantees specified therein, or from any outstanding claims; however, it will not constitute a waiver by County of any rights in respect of Contractor's continuing obligations under the contract documents; and
2. A waiver of all claims by Contractor against County other than those previously made in writing and still unsettled.

#### Books of Account and Audit Provision

Contractor shall maintain on a current basis complete books and records relating to this contract. Such records shall include, but not be limited to, documents supporting all bids, all income and all expenditures. The books and records shall be original entry books with a general ledger itemizing all debits and credits for the work on this contract. In addition, Contractor shall maintain detailed payroll records including all subsistence, travel and field expenses, and canceled checks, receipts and invoices for all items. These documents and records shall be retained for at least five years from the completion of this contract. Contractor will permit County to audit all books, accounts or records relating to this contract or all books, accounts or records of any business entities controlled by Contractor who participated in this contract in any way. Any audit may be conducted on Contractor's premises or, at County's option, Contractor shall provide all books and records within a maximum of fifteen (15) days upon receipt of written notice from County. Contractor shall refund any moneys erroneously charged. If County ascertains that it has been billed erroneously by Contractor for an amount equaling 5% or more of the original bid, Contractor shall be liable for the costs of the audit in addition to any other penalty to be imposed.

## **ARTICLE VIII: PRELIMINARY MATTERS**

### **Delivery of Certificates of Insurance**

Before any work at the site is started, Contractor shall deliver to County certificates (and other evidence of insurance requested by County) which Contractor is required to purchase and maintain in accordance with the insurance provisions herein.

### **Delivery of Bonds**

When Contractor delivers the executed Agreements to County, Contractor shall also deliver to County the bonds required herein. Notwithstanding the language in bonds authorizing attorneys' fees to be awarded if suit is brought upon the bond, no attorneys' fees shall be payable for any other suit brought under this contract.

### **Pre-construction Conference**

Within 5 days after receipt of the Notice to Proceed, but before contractor starts the work at the site, a conference attended by Contractor and County and others as appropriate will be held to discuss schedules, procedures for handling shop drawings and other submittals and for processing applications for payment, and to establish a working understanding among the parties as to the work.

### **Delivery of Schedules**

Within 7 days after receipt of written notice to proceed, Contractor shall submit to County for review:

1. An estimated progress schedule indicating the starting and completion dates of the various stages of the work;
2. A preliminary schedule of shop drawing submissions;
3. A preliminary schedule of product deliveries;
4. A preliminary schedule of values for all of the work which will include quantities and prices of items aggregating the contract price and will subdivide the work into component parts in sufficient detail to serve as the basis for progress payments during construction. Such prices will include an appropriate amount of overhead and profit applicable to each item of work which will be confirmed in writing by Contractor at the time of submission.

### **Finalizing Schedules**

At least ten (10) days before submission of the first application for payment a conference attended by Contractor, County and others as appropriate will be held to finalize schedules. The finalized progress schedule will be acceptable to County as providing an orderly progression of the work to completion within the contract time, but such acceptance will neither impose on County responsibility for the progress or scheduling of the work nor relieve Contractor from full responsibility therefor. The finalized schedule of shop drawing submissions will be acceptable to County as providing a workable arrangement for processing the submissions. The finalized schedule of values will be acceptable to County as to form and substance.

### **Before Starting Construction**

Contractor shall provide County with at least 72 hours written notice of the date on which it intends to commence work. Before undertaking each and every part of the work, Contractor shall carefully study and compare the contract documents and check and verify pertinent figures shown thereon and all applicable field measurements. Contractor shall promptly report in writing to County any conflict, error or discrepancy which Contractor may discover and shall obtain a written interpretation or clarification from County before proceeding with any work affected thereby; however, Contractor shall not be liable to County for failure to report any conflict, error or discrepancy in the contract documents, unless Contractor had actual knowledge thereof or should reasonably have known thereof.

### Contractor's Representations

In order to induce County to enter into this agreement, Contractor makes the following representations:

1. Contractor has familiarized himself or herself with the nature and extent of the contract documents, work, locality, and with all local conditions and federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the work.
2. Contractor has studied carefully all reports of investigations and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress or performance of the work which were relied upon by County in the preparation of the drawings and specifications and which have been identified in the contract documents.
3. Contractor has made or caused to be made examinations, investigations, and tests and studies of such reports and related data necessary for the performance of the work at the contract price, within the contract time and in accordance with the other terms and conditions of the contract documents; and no additional examinations, investigations, tests, reports or similar data are or will be required by Contractor for such purposes.
4. Contractor has correlated the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the contract documents.
5. Contractor has given County written notice of all conflicts, errors or discrepancies that have been discovered in the contract documents and the written resolution thereof by County is acceptable to Contractor.

### **ARTICLE IX: CHANGES IN THE WORK**

#### County May Order Changes

Without invalidating this contract and without notice to any surety, County may, at any time or from time to time, order additions, deletions or revisions in the work; these will be authorized by change order. Upon receipt of any such document, Contractor shall promptly forward any request for change in the contract price and, if instructed to do so, proceed with the work involved which will be performed under the applicable conditions of the contract documents (except as otherwise specifically provided).

#### Failure to Agree to a Price or Time Change; Claims

If County and Contractor are unable to agree as to the extent, if any, of an increase or decrease in the contract price or an extension or shortening of the contract time that should be allowed, a claim may be made therefor but the work shall proceed if County so instructs.

#### No Change in Time or Price for Work Not Required

Contractor shall not be entitled to an increase in the contract price or an extension of the contract time with respect to any work performed that is not required by the contract documents as amended, modified and supplemented except in the case of an emergency as set forth herein and except in the case of uncovering work for inspection or testing as set forth in this contract.

#### Changes in Time or Price

County and Contractor shall execute appropriate change orders (or written amendments) covering:

1. Changes in the work which are ordered by County or are agreed to by the parties;
2. Changes in the contract price or contract time which are agreed to by the parties; and
3. Changes in the contract price or contract time which embody the substance of any written decision rendered by County in response to a request therefor.

#### Notice to Sureties

If notice of any change affecting the general scope of the work or the provisions of the contract documents (including, but not limited to, contract price or contract time) is required by the provisions of any bond to be given to a surety, the giving of any such notice will be Contractor's responsibility, and the amount of each

applicable bond will be adjusted accordingly. Failure to give such notice shall not release the surety from its obligations to County.

## **ARTICLE X: CONTRACT DOCUMENTS**

### Intent

The contract documents comprise the entire agreement between County and Contractor concerning the work. The contract documents are complementary; what is called for by one is as binding as if called for by all. The contract documents will be construed in accordance with California law.

### Contract Interpretation

It is the intent of the contract documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the contract documents. Any work, materials or equipment that may reasonably be inferred from the contract documents as being required to produce the intended results will be supplied whether or not specifically called for. When words which have a well-known technical or trade meaning are used to describe work, materials or equipment, such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association, or to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code or laws or regulations in effect at the time of opening of bids, except as may be otherwise specifically stated. However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference in the contract documents) shall be effective to change the duties and responsibilities of County or Contractor, or any of their consultants, agents or employees from those set forth in the contract documents, nor shall it be effective to assign to County, or any of County's consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the work or any duty or authority to undertake responsibility contrary to the provisions of this contract. Clarifications and interpretations of the contract documents shall be issued by County.

### Conflicts, Errors and Discrepancies

If during the performance of the work, Contractor finds a conflict, error or discrepancy in the contract documents, Contractor shall so report to County in writing at once and before proceeding with the work affected thereby shall obtain a written interpretation or clarification from County.

### Amending Contract Documents

The contract documents may be amended to provide for additions, deletions and revisions in the work or to modify the terms and conditions thereof by change order. Contract price and contract time may only be changed by change order.

### Supplementary Contract Documents

In addition to the above, the requirements of the contract documents may be supplemented, and minor variations and deviations in the work may be authorized in one or more of the following ways:

1. A field order,
2. County's approval of a shop drawing or sample, or
3. County's written interpretation or clarification.

### Reuse of Documents

Neither contractor nor any subcontractor or supplier or other person or organization performing or furnishing any of the work under a direct or indirect contract with County shall have or acquire any title to or ownership rights in any of the drawings, specifications or other documents (or copies of any thereof) prepared by or bearing the seal of County; and they shall not reuse any of them on extensions of the project or any other project without written consent of County and specific written verification or adaptation by County.

### Contract Documents

The contract documents comprise the entire agreement between the parties and may be amended only by writing signed by both parties or by written change order. The contract documents shall include this contract,



any general and special conditions, plans and specifications, bidding documents and addenda thereto, and all proposals submitted by Contractor. In the case of ambiguity or conflict, the documents shall be given the following priority:

1. Special provisions or conditions
2. Standard Public Works Contract
3. Project plans
4. Standard plans
5. Standard specifications
6. All other documents incorporated by reference.

## **ARTICLE XI: THE PROJECT SITE**

### Availability of Lands

County shall furnish, as indicated in the contract documents, the lands upon which the work is to be performed, rights-of-way and easements for access thereto, and such other lands which are designated for the use of Contractor. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by County, unless otherwise provided in the contract documents. If Contractor believes that any delay in County's furnishing these lands, rights-of-way or easements entitles Contractor to an extension of the contract time, Contractor may make a claim therefor as provided for herein. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

### Physical Conditions

If the contract documents identify those reports of explorations and tests of subsurface conditions at the site that have been utilized by County in preparation of the contract documents, Contractor may rely upon the accuracy of the factual data contained in such reports but not upon interpretations or opinions contained therein or for the completeness or representativeness thereof for Contractor's purposes. If construction drawings of physical conditions in or relating to existing surface and subsurface structures (except underground facilities discussed below) at or contiguous to the site have been utilized by County in preparation of the contract documents, Contractor may rely upon the accuracy of the factual data contained in such drawings but not the completeness thereof for Contractor's purposes. If Contractor believes that any factual data on which Contractor is entitled to rely is inaccurate, or any physical condition uncovered or revealed at the site differs materially from that indicated, reflected or referred to in the contract documents, Contractor shall, promptly after becoming aware thereof and before performing any work in connection therewith (except in an emergency as permitted herein), notify County in writing about the inaccuracy or difference. Failure to notify County promptly shall relieve County of any liability for any and all claims resulting from such inaccuracy or difference.

### County's Review

County will review the pertinent conditions, determine the necessity of obtaining additional explorations or tests with respect thereto and advise Contractor in writing of County's findings and conclusions.

### Possible Document Change

If County concludes that there is a material error in the contract documents or that because of newly discovered conditions a change in the contract documents is required, a change order will be issued in writing as provided to reflect and document the consequences of the inaccuracy or difference.

### Possible Price and Time Adjustments

In each case of inaccuracy or difference, an increase or decrease in the contract price or an extension or shortening of the contract time, or any combination thereof, will be allowable to the extent that they are attributable to any such inaccuracy or difference. If County and Contractor are unable to agree as to the amount or length thereof, a claim may be made therefor as provided in the contract documents.

### Physical Conditions - Underground Facilities

The information and data shown or indicated in the contract documents with respect to existing underground facilities at or contiguous to the site is based on information and data furnished to County by the owners of such underground facilities or by others. Generally service connections are not indicated on drawings. Unless it is otherwise expressly provided:

1. County shall not be responsible for the accuracy or completeness of any such information or data; and,
2. Contractor shall have full responsibility for reviewing and checking all such information and data, for locating all underground facilities shown or indicated in the contract documents, for coordination of the work with the owners of such underground facilities during construction, for the safety and protection thereof, and repairing any damage thereto resulting from the work, the cost of all of which will be considered as having been included in the contract price.
3. If an underground facility is uncovered or revealed at or contiguous to the site which was not shown or indicated in the contract documents and which Contractor could not reasonably have been expected to be aware of, Contractor shall, promptly after becoming aware thereof and before performing any work affected thereby (except in an emergency as permitted by this contract), identify the owner of such underground facility and give written notice thereof to that owner and to County. County will review the underground facility to determine the extent to which the contract documents should be modified to reflect and document the consequences of the existence of the underground facility, and the contract documents will be amended or supplemented to the extent necessary. During such time, Contractor shall be responsible for the safety and protection of such underground facility as provided herein. Contractor shall be allowed an increase in the contract price or an extension of the contract time, or both, to the extent that they are attributable to the existence of any underground facility that was not shown or indicated in the contract documents and which Contractor could not reasonably have been expected to be aware of and will not be assessed liquidated damages pursuant to Government Code Section 4215. If the parties are unable to agree as to the amount or length thereof, Contractor may make a claim therefor as provided in these contract documents.

### Preservation of Property

Due care shall be exercised to avoid injury to existing highway improvements or facilities, utility facilities, adjacent property, and roadside trees, shrubs, and other plants that are not to be removed. Roadside trees, shrubs, and other plants that are not to be removed, and pole lines, fences, signs, markers and monuments, buildings and structures, conduits, pipelines under or above ground, sewer and water lines, all highway facilities and any other improvements or facilities within or adjacent to the project shall be protected from injury or damage, and if ordered by County, the Contractor shall provide and install suitable safeguards, approved by County, to protect such objects from injury or damage. If such objects are injured or damaged by reason of the Contractor's operations, they shall be replaced or restored at the Contractor's expense. The facilities shall be replaced or restored to a condition as good as when the Contractor entered upon the work, or as good as required by the specifications accompanying the contract, if any such objects are a part of the work being performed under the contract. County may make or cause to be made such temporary repairs as are necessary to restore to service any damaged facility. The cost of such repairs shall be borne by the Contractor and may be deducted from any moneys due or to become due to the Contractor under the contract. Full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all the work involved in protecting or repairing property, shall be considered as included in the prices paid for the various contract items of work and no additional compensation will be allowed therefor.

### Reference Points

County shall establish one or more horizontal and vertical reference points for construction which in County's judgment are necessary to enable Contractor to proceed with the work or as provided in the contract documents. County shall set any other stakes or marks which it deems necessary to establish the lines and grades required for the completion of the work unless the special provisions require that the Contractor is responsible for laying out the work. Contractor shall notify the County when Contractor

requires staking, in writing a reasonable time in advance of such requirement. In no event shall Contractor give less than two working days notice of such requirement. Contractor shall protect and preserve the established reference points, stakes and marks and shall make no changes or relocations without the prior written approval of County. Contractor shall report to County whenever any reference point, stake or mark is lost or destroyed or requires relocation because of necessary changes in grades or locations. Contractor will be charged for the cost of relocation or replacement if the need therefor arises due to Contractor's acts.

#### Power

The Contractor shall provide, at no additional cost to the County, all construction power used at the project site and shall make all arrangements with the electrical utility and with the County for power takeoff points, voltage and phasing requirements, transformers, and metering and shall pay all costs and fees arising therefrom. It shall be the Contractor's responsibility to provide all special connections required for the work.

#### Water

The Contractor shall provide the water needed for the work, including potable water, construction water, and water for testing purposes.

#### Sanitary Facilities

The Contractor shall make arrangements for use of adequate toilet facilities at or near the site of work. Such facilities shall be subject to the acceptance of the County as to location and type. The Contractor shall maintain the sanitary facilities in acceptable condition from the beginning of the work until completion and shall remove the facilities and disinfect the premises.

#### Contractor's Office

The Contractor shall maintain on the project site a suitable office or other protected area in which shall be kept project copies of the contract documents, project progress records, etc., which shall be accessible to County during normal working hours.

#### Field Office

Where required by the contract documents, the Contractor shall, at Contractor's own expense, provide or construct a separate field office for County staff. The office building shall be approximately 12' x 28' in size x 8' minimum ceiling height and shall be of weather-tight construction. The walls and ceiling shall be lined inside with insulating fiberboard. The ceiling shall be insulated. The office building shall have at least six windows and two entrance doors, each complete with cylinder lock and four keys. The Contractor shall provide and pay for janitor service; heating and refrigerated air conditioning equipment; electric wiring, power, and fixtures; monthly private line telephone service with outside horn; bottled drinking water service with cooling dispenser. The office shall be furnished by Contractor with the following equipment:

- 2 Suitable office desks with drawers and locks
- 1 Suitable plan table not less than 3'-0" x 8'-0"
- 1 Suitable drafting table not less than 3'-0" x 5'-0"
- 1 Metal drafting stool with back
- 2 Straight chairs
- 2 Swivel chairs
- 1 Metal filing cabinet, 18" x 30" x 52", 4 drawers with locks
- 1 Supply cabinet with not less than 15 square feet of shelves
- 1 Plan rack
- 2 Wastebasket

The field office shall be completed within one week after the Contractor starts the site work, in a location as approved by County. The building and furnishings shall be removed at the conclusion of the work, or at any time during construction as directed by County, and shall remain the property of the Contractor.



## **ARTICLE XII: LABOR, MATERIAL AND PERFORMANCE BONDS**

### Bonds to be Provided

The Contractor shall furnish two bonds each in the amount of one hundred (100%) percent of the contract price, one as security for the faithful performance of the work, and the other as security for the faithful payment and satisfaction of all persons furnishing materials and performing labor for the project. The bonds shall be issued by a corporation duly and legally licensed to transact surety business in the State of California. The labor and materials bond shall remain in force throughout the period required to complete the work and for 35 days after the recording of the Notice of Completion. The performance bond shall remain in force for a period of 365 days after final acceptance of the work to cover any defects in workmanship, materials, or equipment which develop in that time. The bonds must be executed by a duly licensed surety company and accompanied by a certified copy of the authority to act. The scope of the bonds or the forms thereof shall in no way affect or alter the liabilities of the Contractor to County. Bonds shall be executed on the forms included in the contract documents.

### Insolvency or Termination of Right to Do Business

If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in California, Contractor shall within five days thereafter substitute another bond and surety, both of which must be acceptable to County. If an acceptable substitute is not furnished within five days, County may terminate Contractor.

## **ARTICLE XIII: CONTRACTOR LIABILITY AND INSURANCE**

### Liability of Contractor

The Contractor shall be liable for all damages and injury which shall be caused to County or any other owners of property on or in the vicinity of the work or which shall occur to any person or persons or property whatsoever arising out of the performance of this contract. Contractor agrees to hold County harmless and indemnify County for any such losses.

### Contractor's Liability Insurance

Contractor shall purchase and maintain commercial general liability and other insurance as is appropriate for the work being performed and furnished and as will provide protection from claims set forth below which may arise out of or result from Contractor's performance and furnishing of the work and Contractor's other obligations under the contract documents, whether it is to be performed or furnished by Contractor, by any subcontractor, by anyone directly or indirectly employed by any of them to perform or furnish any of the work, or by anyone for whose acts any of them may be liable:

1. Claims under workers' disability benefits and other similar employee benefit acts;
2. Claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
3. Claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;
4. Claims for damages insured by personal injury liability coverage which are sustained (a) by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or (b) by any other person for any other reason;
5. Claims for damages, other than to the work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom;
6. Claims arising out of operation of laws or regulations for damages because of bodily injury or death of any person or for damage to property; and
7. Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

To the extent that Contractor's work, or work under Contractor's direction, may require blasting, explosive conditions, or underground operations, the comprehensive general liability coverage shall contain no exclusion relative to blasting, explosion, collapse of buildings, or damage to underground property.

The insurance required by this paragraph shall be "per occurrence" coverage and shall include the specific coverages and be written for not less than the limits of liability and coverages provided herein, or required by law, whichever is greater. The commercial general liability insurance shall include completed operations insurance. All such insurance shall remain in effect until final payment and at all times thereafter when Contractor may be correcting, removing or replacing defective work. In addition, Contractor shall maintain such completed operations insurance for at least one year after final payment and furnish County with evidence of continuation of such insurance at final payment. If Contractor's insurance is canceled prior to completion of the project and the Contractor does not furnish a new Certificate of Insurance prior to cancellation, County may obtain the required insurance and deduct the premium from contract moneys due the Contractor.

At the option of Contractor, evidence of coverage and limits may be furnished by an umbrella liability policy certificate in addition to certificates for worker's compensation and employer's liability, and comprehensive automobile and general liability policies.

#### Contractual Liability Insurance

The commercial general liability insurance required above will include contractual liability insurance applicable to Contractor's obligations hereunder.

#### Owner's Liability Insurance

Contractor shall purchase and maintain Owner's liability insurance. This insurance shall be issued in the name of County and shall protect and defend County and its agents against all claims arising as a result of the operations of Contractor. The coverage and limits of liability shall be co-extensive with those specified for the Contractor's liability insurance. The Owner's liability insurance may be provided by naming County and its agents as an additional insured on the Contractor's liability insurance.

#### Property Insurance

Unless otherwise specifically provided, Contractor shall purchase and maintain property insurance (builder's risk) upon the work or equipment and supplies stored at the site to the full insurable value thereof (subject to such deductible amounts as may be agreed upon or required by laws and regulations.) This insurance shall include the interests of County and its agents, Contractor and subcontractors in the work. County shall be listed as an additional insured party. Said policy shall insure against the perils of fire, extended coverage, testing and shall include "all risk" insurance for physical loss and damage including theft, vandalism and malicious mischief, collapse and water damage, and such other perils as may be provided herein, and shall include damages, losses and expenses arising out of or resulting from any insured loss or incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers, architects, attorneys and other professionals).

#### Amount of Property Insurance

Said insurance shall be on a "per occurrence" basis for the full value of the work and supplies and equipment stored or used in connection with the project and shall include vandalism and malicious mischief endorsement. Special consent of County shall be required prior to use of "claims made" coverage.

#### Schedule of Required Insurance

1. Worker's Compensation Insurance: Statutory amount and employer's liability of \$1,000,000.
2. Contractor's Commercial General Liability Insurance (bodily injury, property damage and including contractual liability insurance, completed operations and products liability insurance): \$2,000,000.
3. Physical Damage to Owner Owned Property (remodeling or retrofitting project) or Builder's Risk Insurance (new construction project) including but not limited to fire, extended coverage, vandalism, malicious mischief, and optional perils coverage; full value of work to be performed under contract

including supplies and equipment stored or used in connection with the project with a maximum deductible of \$500.

4. Comprehensive Business or Commercial Automobile Liability Coverage (bodily injury liability, property damage liability, uninsured motorist protection and including non-owned and hired automobile liability): \$1,000,000.

#### Notice Requirement

All the policies of insurance (or the certificates or other evidence thereof) required to be purchased and maintained by the Contractor shall contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least ten (10) days prior written notice has been given to County by registered mail.

#### Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be fully disclosed by Contractor and approved by County prior to commencement of work. At County's option, the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects County, its officials and employees, or Contractor shall provide a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

#### Risk of Loss

Liability for loss or damage to equipment, materials, workmanship or services occurring on or off the site shall be the responsibility of the Contractor. Liability for completed work shall not be assumed by County until both the work has been completed and County has accepted the work as complete. County will not be responsible for purchasing and maintaining any property insurance to protect the interests of Contractor, subcontractors or others in the work. The risk of loss will be borne by Contractor, subcontractor or others suffering any such loss and if any of them wishes property insurance coverage in addition to insurance required herein, each may purchase and maintain it at the purchaser's own expense.

#### Waiver of Rights

Contractor waives all rights against County and its agents for all losses and damages caused by any of the perils covered by the policies of insurance provided for above and any other property insurance applicable to the work, and all other parties named as insureds in such policies for losses and damages so caused. Each subcontract between Contractor and a subcontractor will contain similar waiver provisions by the subcontractor in favor of County and its agents and all other parties named as insureds. None of the above waivers shall extend to the rights that any of the insured parties may have to the proceeds of insurance held by County as trustee or otherwise payable under any policy so issued.

#### No Right of Recovery

County and Contractor intend that any policies provided as set forth herein shall protect all of the parties insured and provide primary coverage for all losses and damages caused by the perils covered thereby. Any insurance or self-insurance maintained by County shall be in excess of Contractor's insurance and shall not contribute to it.

#### Receipt and Application of Proceeds

Any insured loss under the policies of insurance required herein will be adjusted with County and made payable to County as trustee for the insureds, as their interests may appear, subject to the requirements of any applicable mortgage clause. County shall deposit in a separate account any money so received, and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged work shall be repaired or replaced, the moneys so received applied on account thereof and the work and the cost thereof covered by an appropriate change order or written amendment.

#### County's Duties as Trustee

County as trustee shall have power to adjust and settle any loss with the insurers.

#### Acceptance of Insurance

If County has any objection to the coverage afforded by or other provisions of the insurance required to be purchased and maintained by Contractor on the basis of its not complying with the contract documents, County shall notify Contractor in writing thereof and Contractor shall immediately provide proof of the proper coverage. Contractor shall provide to County such additional information in respect of insurance provided by it as County may reasonably request. County may at its option waive any type of insurance required herein which County in its discretion deems to be inapplicable to the type of project being constructed. Any such waiver shall be in writing by the County Executive Officer.

#### Verification of Coverage

Contractor shall furnish County with certificates of insurance and with original endorsements affecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by County and are to be received and approved by County before work commences.

#### Subcontractors

Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

### **ARTICLE XIV: MATERIALS AND EQUIPMENT**

#### Material and Equipment

Unless otherwise specified, Contractor shall furnish and assume full responsibility and risk of loss for all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities and all other facilities and incidentals necessary for the furnishing, performance, testing, start-up and completion of the work.

#### Quality of Materials and Equipment

All materials and equipment shall be of good quality and new, except as otherwise provided in the contract documents. If required by County, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the kind and quality of materials and equipment. Contractor may be required to show that materials and/or equipment will be available in sufficient quantity or time so as to assure top quality performance of the contract. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable supplier except as otherwise provided in the contract documents; but no provision of any such instructions will be effective to assign to County, or any of County's consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the work or any duty or authority to undertake responsibility contrary to the provisions of this contract.

#### Storage of Materials and Equipment

Materials and equipment shall be stored where specified by County and so as to insure the preservation of their quality and fitness for the work. Stored equipment and materials shall be located so as to facilitate inspection. The Contractor shall be responsible for all damages that occur to materials and equipment until the completion and final acceptance of the work by the County.

#### Substitute Items

Whenever materials or equipment are specified or described in the contract documents by using the name of a proprietary item or the name of a particular supplier the naming of the item is intended to establish the type, function and quality required. Unless the name is followed by words indicating that no substitution is permitted, materials or equipment of other suppliers may be accepted by County if sufficient information is submitted in advance by Contractor to allow County to determine that the material or equipment proposed is equivalent or equal to that named.

The procedure for review by County will include the following: requirements for review of substitute items of material and equipment or modification or alteration of the design of any material or equipment or portion

of the work will not be accepted by County from anyone other than Contractor. If Contractor wishes to furnish or use a substitute item of material or equipment or modification or alteration of the design of any material or equipment or portion of the work, Contractor shall make written application to County for acceptance thereof, certifying that the proposed substitute or modification or alteration will perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as that specified. The application will state that the evaluation and acceptance of the proposed substitute will not prejudice Contractor's achievement of completion on time, whether or not acceptance of the substitute or design modification or alteration for use in the work will require a change in any of the contract documents (or in the provisions of any other direct contract with County for work on the project) to adapt the design to the proposed substitute or design modification or alteration and whether or not incorporation or use of the substitute in connection with the work is subject to payment of any license fee or royalty. All variations of the proposed substitute or design modification or alteration from that specified will be identified in the application and available maintenance, repair and replacement service will be indicated, where necessary. The application will also contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute or design modification or alteration, including costs of redesign and claims of other contractors affected by the resulting change, all of which shall be considered by County in evaluating the proposed substitute or design modification or alteration. County may require Contractor to furnish at Contractor's expense additional data about the proposed substitute or design modification or alteration. County will be allowed a reasonable time within which to evaluate each proposed substitute or design modification or alteration. County will be the sole judge of acceptability, and no substitute or design modification or alteration will be ordered, installed or utilized without County's prior written acceptance which will be evidenced by either a change order or an accepted shop drawing. County may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute or design modification or alteration. Contractor shall pay all costs for redesign required by the implementation of the proposed substitute.

#### Operating and Maintenance Instructions and Manufacturer's Warranties

Before receiving payment for more than 60 percent of the purchase value of any equipment and prior to installation of said equipment, the Contractor shall deliver to County acceptable manufacturer's operating and maintenance instructions covering each item of equipment assembly provided under this contract and each and every warranty provided by the manufacturer. Manufacturers' standard brochures or manuals will be modified to reflect only that model or series of equipment installed on this project. All extraneous material will be crossed out or otherwise altered as acceptable to County.

The operating and maintenance instructions shall include, as a minimum, the following data for each item of mechanical, electrical, and instrumentation equipment:

1. An itemized list of all data provided.
2. Name and location of the manufacturer, the manufacturer's local representative, the nearest supplier and spare parts warehouse.
3. Accepted submittal information applicable to operation and maintenance.
4. Recommended installation, adjustment, start up, calibration, and troubleshooting procedures.
5. Recommended lubrication and an estimate of yearly quantity needed.
6. Recommended step-by-step procedures for all modes of operation.
7. Complete internal and connection wiring diagrams.
8. Recommended preventive maintenance procedures and schedule.
9. Complete parts lists, by generic title and identification number, with exploded view of each assembly.
10. Recommended spare parts.
11. Disassembly, overhaul, and re-assembly instructions.



12. Complete, as applicable, operating and maintenance instructions, transmittal forms and summary sheets.
13. Nameplate data for all equipment supplied, including make, model and serial numbers, type and motor data together with designation and location of equipment.

Before final acceptance of the project, the Contractor shall bind all of the above in an appropriately labeled binder. Each completed binder shall contain only that material which can be held in a non-expanded position. A complete table of contents listing all items and their location in the set shall be included in each binder. For ready reference, the Contractor shall compile a complete list of manufacturer's local representatives for each item provided. In addition to withholding payment where Contractor fails to provide County with manufacturer's warranties, Contractor shall also be deemed to have personally warranted the equipment to the same extent as the manufacturer's warranty on the equipment.

#### Patent Fees and Royalties

Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the work or the incorporation in the work of any invention, design, process, product or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product or device is specified in the contract documents for use in the performance of the work and if to the actual knowledge of County its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by County in the contract documents. Contractor shall indemnify and hold harmless County and anyone directly or indirectly employed by either of them from and against all claims, damages, losses and expenses (including attorneys' fees and court and arbitration costs) arising out of any infringement of patent rights or copyrights incident to the use in the performance of the work or resulting from the incorporation in the work of any invention, design, process, product or device not specified in the contract documents, and shall defend all such claims in connection with any alleged infringement of such rights.

#### Contractor's Equipment

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

The make, model, serial number and manufacturer's rated capacity for each scale shall be clearly stamped or stenciled on the load receiving element and its indicator or indicators. All meters shall be similarly identified, rated and marked. Upon request of County, the Contractor shall furnish a statement by the manufacturer, designating sectional and weighbridge capacities of portable vehicle scales.

### **ARTICLE XV: PLANS AND SPECIFICATIONS**

#### Interpretation of Plans, Specifications and Drawings

The plans, specifications and the drawings are intended to be explanatory of each other. Any work indicated on the drawings and not in the plans or specifications, or vice versa, shall be executed as if indicated in both. Where not specifically stated otherwise, all work and materials necessary for each unit of construction, including special construction for any specific brand or shape of material called for even though only briefly mentioned or indicated, shall be furnished and installed fully and completely as a part of the Contract. As the figured dimensions shown on the drawings and in the specifications of the contract may not in every case agree with scale dimensions, the figured dimensions shall be followed in preference to the scaled dimensions. Should it appear that the work to be done, or any of the matters relative thereto are not sufficiently detailed or explained in the contract documents, the Contractor shall apply to County for such further explanations as may be necessary, and shall conform thereto as part of the contract so far as may be consistent with the terms thereof. In the event of any doubt or question arising respecting the true meanings of the plans, specifications or drawings, the decision of County shall be final and conclusive.

Where for convenience the specifications are arranged by job classification or divided into various sections, it is to be understood this separation is for the convenience of all parties involved and is not to be considered as the limits of the work required of any separate trade. The terms and conditions of such limitations are wholly between Contractor and its subcontractors during both the bidding and construction phase; i.e., all work shown, specified, implied or necessary for the completion of each trade's work, as well as for the proper completion of the project as a whole shall be coordinated by Contractor and the subcontractors during bidding and construction and shall be provided in this contract.

#### Ownership

All plans and specifications shall remain the property of County and shall be returned to County before the final certificate will be issued.

#### Handicapped Access

Where applicable, it is the County's intent for all features on the plans and specifications to conform to applicable regulations for the accommodation of physically handicapped persons in buildings and facilities used by the public.

### **ARTICLE XVI: SHOP DRAWINGS AND SAMPLES**

#### Shop Drawings

After checking and verifying all field measurements and after complying with applicable procedures herein, Contractor shall submit to County for review and acceptance in accordance with the accepted schedule of shop drawing submissions or other appropriate action if so indicated herein, the number of copies specified of all shop drawings, which will bear a stamp or specific written indication that Contractor has satisfied Contractor's responsibilities under the contract documents with respect to the review of the submission. All submissions will be identified as County may require. Such drawings shall be approved by County before any work involving the drawings is performed. The data shown on the shop drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials and similar data to enable County to review the information as required.

#### Samples

Contractor shall also submit to County for review and acceptance with such promptness as to cause no delay in work, all samples required by the contract documents or as requested by County. All samples will have been checked by and accompanied by a specific written indication that Contractor has satisfied Contractor's responsibilities under the contract documents with respect to the review of the submission and will be identified clearly as to material, supplier, pertinent data such as catalog numbers and the use for which intended.

#### Contractor's Review

Before submission of each shop drawing or sample, Contractor shall have determined and verified all quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers and similar data with respect thereto and reviewed or coordinated each shop drawing or sample with other shop drawings and samples and with the requirements of the work and the contract documents.

#### Notice of Variation

At the time of each submission, Contractor shall give County specific written notice of each variation that the shop drawings or samples may have from the requirements of the contract documents, and, in addition, shall cause a specific notation to be made on each shop drawing submitted to Engineer for review and acceptance of each such variation.

#### County's Review

County will review and accept with reasonable promptness shop drawings and samples, but County's review and acceptance will be only for conformance with the design concept of the project and for compliance with the information given in the contract documents and shall not extend to means, methods, techniques, sequences or procedures of construction (except where a specific means, method, technique, sequence or procedure of construction is indicated in or required by the contract documents) or to safety precautions or programs incident thereto. The review and acceptance of a separate item as such will not

indicate acceptance of the assembly in which the item functions. Within a reasonable time after receipt of drawings or samples, County will return marked up copies indicating one of the following four actions:

1. If review and checking indicates no exceptions, copies will be returned marked "NO EXCEPTIONS TAKEN" and work may begin immediately on incorporating the material and equipment covered by the submittal into the work.
2. If review and checking indicates limited corrections are required, copies will be returned marked "MAKE CORRECTIONS NOTED" and work may begin immediately on incorporating the material and equipment covered by the submittal into the work.
3. If review and checking indicates insufficient or incorrect data has been submitted, copies will be returned marked "AMEND AND RESUBMIT". No work may begin on incorporating the material and equipment covered by this submittal into the work until the submittal is revised, resubmitted, and returned marked either "NO EXCEPTIONS TAKEN" or "MAKE CORRECTIONS NOTED".
4. If review and checking indicates the material and equipment submittal is unacceptable, copies will be returned marked "REJECTED". No work may begin on incorporating the material and equipment covered by this submittal into the work until a new submittal is made and returned marked either "NO EXCEPTIONS TAKEN" or "MAKE CORRECTIONS NOTED".

Contractor shall direct specific attention in writing to revisions other than the corrections called for by County on previous submittals. The Contractor may authorize material or equipment supplier to deal directly with County with regard to such submittals; however, ultimate responsibility for the accuracy and completeness of the information contained in the submittal shall remain with the Contractor. Normally, a separate transmittal form shall be used for each specific item or class of material or equipment for which a submittal is required. Submittals on various items using a single transmittal form will be permitted only when the items taken together constitute a manufacturer's "package" or are so functionally related that expediency indicates checking or review of the group or "package" as a whole.

#### Contractor's Responsibility for Variation

County's review of shop drawings or samples shall not relieve Contractor from responsibility for any variation from the requirements of the contract documents unless Contractor has in writing called County's attention to each such variation at the time of submission and County has given written acceptance of each such variation by a specific written notation thereof incorporated in or accompanying the shop drawing or sample review nor will any review by County relieve Contractor from responsibility for errors or omissions in the shop drawings or from responsibility for having complied with the provisions above.

#### Work Performed Prior to Shop Drawing or Sample Review

Where a shop drawing or sample is required by the specifications, any related work performed prior to County's review of the pertinent submission will be the sole expense and responsibility of Contractor.

### **ARTICLE XVII: SUBCONTRACTORS, SUPPLIERS AND OTHERS**

#### Objectionable Parties

Contractor shall not employ any subcontractor, supplier or other person or organization, whether initially or as a substitute, against whom County may have reasonable objection. Contractor shall not be required to employ any subcontractor, supplier or other person or organization to furnish or perform any of the work against whom Contractor has reasonable objection. If the contract documents require the identity of certain subcontractors, suppliers or other persons or organizations (including those who are to furnish the principal items of materials and equipment) to be submitted to County in advance for acceptance by County and if Contractor has submitted a list thereof in accordance with the contract documents, County's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the bidding documents or the contract documents) of any such subcontractor, supplier or other person or organization so identified may be revoked on the basis of reasonable objection after due investigation, in which case Contractor shall submit an acceptable substitute, the contract price will be increased by the difference in the cost occasioned by such substitution and an appropriate change order



will be issued. No acceptance by County of any such subcontractor, supplier, or other person or organization shall constitute a waiver of any right of County to reject defective work. The Contractor may not change any subcontractors listed on its bid without written approval from County after a determination that the requirements of Public Contracts Code Section 4107 have been met.

Responsibility for Subcontractors

Contractor shall be fully responsible to County for all acts and omissions of the subcontractors, suppliers and other persons and organizations performing or furnishing any of the work under a direct or indirect contract with Contractor just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the contract documents shall create any contractual relationship between County and any such subcontractor, supplier or other person or organization, nor shall it create any obligation on the part of County to pay or to see to the payment of any moneys due any such subcontractor, supplier or other person or organization except as may otherwise be required by laws and regulations. County may furnish to any subcontractor or other person or organization, to the extent practical, evidence of amounts paid the Contractor on account of specific work done.

Division of Work

The divisions and sections of the specifications and the identifications of any drawings shall not control Contractor in dividing the work among subcontractors or suppliers or delineating the work to be performed by any specific trade.

Subcontracts

All work performed for Contractor by a subcontractor will be pursuant to an appropriate agreement between contractor and the subcontractor which specifically binds the subcontractor to the applicable terms and conditions of the contract documents for the benefit of County and contains waiver provisions as required herein. Contractor shall pay each subcontractor a just share of any insurance moneys received by Contractor on account of losses under policies issued pursuant to this Contract.

**ARTICLE XVIII: PERFORMANCE OF THE WORK**

Supervision

Contractor shall supervise and direct the work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the work in accordance with the contract documents. Contractor shall be solely responsible for the means, methods, techniques, sequences and procedures of construction. Contractor shall be responsible to see that the finished work complies accurately with the contract documents.

Superintendence

Contractor shall keep on the work at all times during its progress a competent resident superintendent, acceptable to County, who shall not be replaced without written notice to County except under extraordinary circumstances. The superintendent will be Contractor's representative at the site and shall have authority to act on behalf of Contractor. All communications given to the superintendent shall be as binding as if given to Contractor. When work is not in progress and during periods when work is suspended, arrangements acceptable to County shall be made for emergencies. If the superintendent is not present, County shall give direction to the next in command and said direction shall be binding.

Personnel

Contractor shall provide competent, suitably qualified personnel to survey and lay out the work and perform construction as required by the contract documents. Contractor shall at all times maintain good discipline and order at the site. Except in connection with the safety or protection of persons or the work or property at the site or adjacent thereto, and except as otherwise indicated in the contract documents, all work at the site shall be performed during regular working hours, and Contractor will not permit overtime work or the performance of work on Saturday, Sunday or any legal holiday without County's written consent given after prior written notice to County.

### Order of Work

If a sequence or procedure is specified in the special provisions or plans for the project, Contractor shall be required to follow the sequence or procedure specified. The price for compliance with a specified sequence or procedure will be considered as part of the bid price and no extra amounts will be allowed therefor.

### Safety and Protection

Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. Contractor shall take all reasonable precautions for the safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

1. All employees on the work and other persons and organizations who may be affected thereby;
2. All the work and materials and equipment to be incorporated therein, whether in storage on or off the site; and
3. Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and underground facilities not designated for removal, relocation or replacement in the course of construction.

Contractor shall comply with all applicable laws and regulations of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and of underground facilities and utility owners when prosecution of the work may affect them, and shall cooperate with them in the protection, removal, relocation and replacement of their property. All damage, injury or loss to any property referred to herein caused, directly or indirectly, in whole or in part, by Contractor, any subcontractor, supplier or any other person or organization directly or indirectly employed by any of them to perform or furnish any of the work or anyone for whose acts any of them may be liable, shall be remedied by Contractor. Contractor's duties and responsibilities for the safety and protection of the work shall continue until such time as all the work is completed and County has issued a notice to County and Contractor that the work is acceptable.

The Contractor shall at all times so conduct the work as to insure the least possible obstruction to traffic and inconvenience to the general public and the residents in the vicinity of the work, and to insure the protection of persons and property. No road or street shall be closed to the public except with the permission of County and other governmental authority. Fire hydrants on or adjacent to the work shall be kept accessible to fire fighting equipment at all times. Temporary provisions shall be made by the Contractor to ensure the use of sidewalks and private and public driveways, and the proper functioning of all gutters, sewer inlets, drainage ditches and culverts, irrigation ditches and natural water courses.

The Contractor shall leave a night emergency telephone number or numbers with the local law enforcement office, so that contact may be made easily at all times in case of trouble or emergencies. The names and telephone numbers of at least two medical doctors practicing in the vicinity and the telephone number of the local ambulance shall be prominently displayed adjacent to all telephones.

Any lighting fixtures shall be installed, mounted and directed in a manner precluding glare to approaching traffic.

### Detours

Where detours are necessary, Contractor shall construct and remove detours as provided in the special provisions, or as shown on the plans, or as directed by County. The failure or refusal of Contractor to construct and maintain detours at the required time shall be sufficient cause for closing down the work until remedied. The cost of the detours shall be considered a part of the contract price or as included in other items of work as noted in the special provisions and no extra amounts shall be paid therefor.

### Safety Representative

Contractor shall designate a responsible representative at the site whose duty shall be the prevention of accidents. This person shall be Contractor's superintendent unless otherwise designated in writing by Contractor to County.

### Vehicle Code

Pursuant to the authority contained in Vehicle Code Section 591, County has determined that within such areas as are within the limits of the project and are open to public traffic, the following requirements of the Vehicle Code will apply. The lighting requirements in Section 25803; the brake requirements in Chapter 3, Division 12; the splash apron requirements in Section 27600; and, when operated on completed or existing treated base, surfacing, pavement or structures, except as otherwise provided in Section 7-1.02, "Weight Limitations," the weight limitation requirements contained in Division 15.

Attention is directed to the statement in said Section 591 that this section shall not relieve Contractor or any person from the duty of exercising due care. The Contractor shall take all necessary precautions for safe operation of its equipment and the protection of the public from injury and damage from such equipment.

Any other requirements set forth in Divisions 11, 12, 13, 14 and 15 of the Vehicle Code which County, pursuant to the authority contained in Vehicle Code Section 591, will require compliance with, will be set forth in the special provisions.

### Trench Safety

Attention is directed to the provisions of Section 6705 of the Labor Code of the State of California.

Excavation for any trench 5 feet or more in depth shall not begin until the Contractor has submitted to County the Contractor's detailed plan for worker protection from the hazards of caving ground during the excavation of such trench. Such plan shall be submitted at least 5 days before the Contractor intends to begin excavation for the trench and shall show the details of the design of shoring, bracing, sloping, or other provisions to be made for worker protection during such excavation. The plan shall not use shoring, sloping or a protective system less effective than that required by the Construction Safety Orders of the Division of Industrial Safety and if such plan varies from the shoring system standards established by the Construction Safety Orders, the plan shall be prepared and signed by an engineer who is registered as a Civil or Structural Engineer in the State of California.

In addition, the Contractor shall obtain, pay for, and comply with all provisions of the permit required by Section 6500 of the California Occupational Safety and Health Act of 1973.

### Notice Prior to Trenching

Where trenching is required, Contractor shall, pursuant to Public Contracts Code Section 7104, promptly, and before the following conditions are disturbed, notify County, in writing of any:

1. Material that 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.
2. Subsurface or latent physical conditions at the site differing from those indicated.
3. Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract.

Upon receipt of such notice, County shall, as required by Public Contracts Code Section 7104, promptly investigate the conditions. If County finds the conditions do materially so differ, or do involve hazardous waste, and would require a decrease or increase in Contractor's cost of, or time required for, performance of any part of the work, County shall issue a change order under the procedures described in this Contract. In the event that a dispute arises between County and Contractor as to whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the cost or time required for performance, Contractor will not be excused from the scheduled completion date but shall proceed with all work to be performed. Contractor shall retain its rights to file a claim as set forth herein.

#### Alcoholic Beverages

Absolutely no alcoholic beverages shall be permitted on the job site.

#### Emergencies

In emergencies affecting the safety or protection of persons or the work or property at the site or adjacent thereto, Contractor, without special instruction or authorization from County, is obligated to act to prevent threatened damage, injury or loss. Contractor shall give County prompt written notice as soon as possible thereafter. If County determines that a change in the contract documents is required because of the action taken in response to an emergency, a change order will be issued to document the consequences of the changes or variations.

#### Warranty and Guarantee

Unless the plans and/or specifications require a longer period for any warranted item, Contractor warrants all of the work completed under this contract by Contractor for a period of one year from the date of final completion. Said warranty includes the guarantee that all work is completed in accordance with the contract documents and that the work is not defective in any way and is fit for its intended use. Work not conforming to the plans and specifications shall be considered defective. If within the warranty period any work is found to be defective, Contractor shall promptly, without cost to County and in accordance with County's written instruction, either correct such defective work or remove it from the site and replace it with non-defective work. If Contractor does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, County may have the defective work corrected or removed and replaced, and all direct, indirect and consequential costs of such removal and replacement (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) will be paid by Contractor. Nothing in this paragraph shall serve as a waiver of the statute of limitations for breach of contract or latent defects.

#### Environmental and Toxics Warranty

Contractor warrants that no asbestos-containing materials, no PCB-containing fixtures or equipment or other toxic or hazardous materials or equipment other than what is contained in standard building materials were installed on this project without County's express written consent. Contractor further warrants that no asbestos-containing materials, PCB-containing fixtures or equipment or other toxic or hazardous materials were discovered during construction of this project which were not disclosed to County in writing.

Contractor also warrants that its operations during the project were not in violation of any applicable federal, state or local environmental law or regulation dealing with hazardous materials or toxic substances, and no notice from any governmental body has been given to Contractor claiming any such violation or calling attention to the need for any work, repairs, construction, or installation or in connection with the project in order to comply with such laws with which Contractor has not complied. If there are any such notices with which Contractor has complied, Contractor shall provide County with copies thereof.

This warranty shall survive completion of the project, and Contractor shall indemnify County for any breach thereof.

#### Access to Work

County's representatives, testing agencies and governmental agencies with jurisdictional interests will have access to the work at reasonable times for their observation, inspecting and testing. Contractor shall provide proper and safe conditions for such access.

#### County May Stop the Work

If Contractor fails to conform with the contract documents, if the work is defective, if the work is being carried out in an unsafe manner, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to furnish or perform the work in such a way that the completed work will conform to the contract documents, County may order Contractor to stop the work, or any portion thereof, until the cause for such order has been eliminated; however, this right of County to stop the work shall not give rise to any duty on the part of County to exercise this right for the benefit of Contractor or any other party.



#### Alternative Methods of Construction

Whenever the plans or specifications provide that more than one specified method of construction or more than one specified type of material or construction equipment may be used to perform portions of the work and leave the selection of the method of construction or the type of material or equipment to be used up to the Contractor, it is understood that County does not guarantee that every such method of construction or type of material or equipment can be used successfully throughout all or any part of any project. It shall be the Contractor's responsibility to select and use the alternative or alternatives which will satisfactorily perform the work under the conditions encountered. In the event some of the alternatives are not feasible or it is necessary to use more than one of the alternatives on any project, full compensation for any additional cost involved shall be considered as included in the contract price paid for the item of work involved and no additional compensation will be allowed therefor.

#### Correction or Removal of Defective Work

If required by County, Contractor shall promptly, as directed, either correct all defective work, whether or not fabricated, installed or completed, or, if the work has been rejected by County, remove it from the site and replace it with non-defective work. Contractor shall bear all direct, indirect and consequential costs of such correction or removal (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) made thereby.

#### Acceptance of Defective Work

If, instead of requiring correction or removal and replacement of defective work, County prefers to accept it, County may do so. Contractor shall bear all direct, indirect and consequential costs attributable to County's evaluation of and determination to accept such defective work (such costs to include but not be limited to fees and charges of engineers, architects, attorneys and other professionals). If any such acceptance occurs prior to final payment, a change order will be issued incorporating the necessary revisions in the contract documents with respect to the work; and County shall be entitled to an appropriate decrease in the contract price, and, if the parties are unable to agree as to the amount thereof, County may make a claim therefor as provided in this Contract. If the acceptance occurs after such recommendation, an appropriate amount will be paid by Contractor to County. No acceptance of defective work shall occur without an express written acknowledgment by County that work described therein is defective and that County is electing to proceed under this clause. No acceptance of defective work may be inferred from any actions by County staff or its agents.

#### County May Correct Defective Work

If Contractor fails within a reasonable time after written notice of County to proceed to correct and to correct defective work or to remove and replace rejected work as required by County in accordance with the above, or if Contractor fails to perform the work in accordance with the contract documents, or if Contractor fails to comply with any other provision of the contract documents, County may, after seven days' written notice to Contractor, correct and remedy any such deficiency. In exercising the rights and remedies under this paragraph County shall proceed expeditiously. To the extent necessary to complete corrective and remedial action, County may exclude Contractor from all or part of the site, take possession of all or part of the work, and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the site and incorporate in the work all materials and equipment stored at the site or for which County has paid Contractor but which are stored elsewhere. Contractor shall allow County, County's representatives, agents and employees such access to the site as may be necessary to enable County to exercise the rights and remedies under this paragraph. All direct, indirect and consequential costs of County in exercising such rights and remedies will be charged against Contractor, and a change order will be issued incorporating the necessary revisions in the contract documents with respect to the work; and County shall be entitled to an appropriate decrease in the contract price, and, if the parties are unable to agree as to the amount thereof, County may make a claim therefor as provided in this Contract. Such direct, indirect and consequential costs will include but not be limited to fees and charges of engineers, architects, attorneys and other professionals, all court costs and all costs of repair and replacement of work of others destroyed or damaged by correction, removal or replacement of Contractor's defective work. Contractor shall not be allowed an extension of the contract time because

of any delay in performance of the work attributable to the exercise by County of County's rights and remedies hereunder.

#### Adjusting Progress Schedule

Contractor shall submit to County for acceptance adjustments in the progress schedule to reflect the impact thereon of new developments; these will conform generally to the progress schedule then in effect and additionally will comply with any provisions of the general requirements applicable thereto.

#### Substitute Method of Construction

If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the contract documents, Contractor may furnish or utilize a substitute means, method, sequence, technique or procedure of construction acceptable to County, if Contractor submits sufficient information to allow County to determine that the substitute proposed is equivalent to that indicated or required by the contract documents. The procedure for review by County will be similar to that provided in the paragraph regarding substitution of materials or equipment. No extension of time or extra compensation will be paid to the Contractor by virtue of County's accepting a substitute method of construction.

#### Suggestions to Contractor

Any plan or method of work suggested by County to the Contractor but not specified or required, if adopted or followed by the Contractor in whole or in part, shall be used at the risk and responsibility of the Contractor; and County shall assume no responsibility therefor and in no way be held liable for any defects in the work which may result from or be caused by use of such plan or method of work. Acceptance by the Contractor of any plan or method of work or change suggested by County shall not relieve the Contractor from any other requirements or provisions of the contract.

#### Permits

Unless otherwise provided for herein, Contractor shall obtain and pay for all construction permits and licenses necessary or incidental to the work. County shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the work, which are applicable at the time of opening of bids. County shall pay all charges of utility connections to the work.

#### Laws and Regulations

Contractor shall give all notices and comply with all laws and regulations applicable to furnishing and performance of the work. Except where otherwise expressly required by applicable laws and regulations, County shall not be responsible for monitoring Contractor's compliance with any laws or regulations. If Contractor observes that the specifications or drawings are at variance with any laws or regulations, Contractor shall give County prompt written notice thereof, and any necessary changes will be authorized by one of the methods indicated herein. If Contractor performs any work knowing or having reason to know that it is contrary to such laws or regulations, and without such notice to County, Contractor shall bear all costs, damages, fines or penalties, arising therefrom.

#### Taxes

Contractor shall pay all sales, consumer, use and other similar taxes required to be paid by Contractor in accordance with the laws and regulations of the place of the project which are applicable during the performance of the work.

#### Use of Premises

Contractor shall confine construction equipment, the storage of materials and equipment and the operations of workers to the project site and land and areas identified in and permitted by the contract documents and other land and areas permitted by laws and regulations, rights-of-way, permits and easements, and shall not unreasonably encumber the premises with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof or of any land or areas contiguous thereto, resulting from the performance of the work. Should any claim be made against County by any such owner or occupant because of the performance of the work, Contractor shall promptly attempt to settle with such other party by agreement or otherwise resolve the claim by arbitration or at law. Contractor shall, to the fullest extent permitted by laws and

regulations, indemnify and hold County harmless from and against all claims, damages, losses and expenses (including, but not limited to, fees of engineers, architects, attorneys and other professionals and court and arbitration costs) arising directly, indirectly or consequentially out of any action, legal or equitable, brought by any such other party against County to the extent based on a claim arising out of Contractor's performance of the work.

Fences which cross, abut, or are on easements shall at all times be maintained by the Contractor in a condition which provides the functional purpose of the fence. Temporary fencing of the construction area will be permitted and temporary fencing shall provide the same functional purpose as existing fencing. Unless otherwise indicated, all improvements within easements shall be restored to conditions that existed prior to the start of work.

Before final acceptance of the work the Contractor shall obtain a written statement of release from each property owner that granted an easement for the work. Release statement shall indicate the property owner's acceptance of the site conditions as restored by the Contractor. The County may waive said written releases where a property owner refuses to sign same but only upon making a determination that there is no work to be completed with respect to said property.

#### Site Clean-Up

During the progress of the work, Contractor shall keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the work. At the completion of the work, Contractor shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, appliances, construction equipment and machinery, and surplus materials, and shall leave the site clean and ready for occupancy by County. Contractor shall restore to original condition all property not designated for alteration by the contract documents.

The Contractor is advised that the final cleanup of the project shall be done with meticulous care and that the County expects all ductwork, cubicles, cabinets, motor control centers, control panels, rooms, and enclosures to be thoroughly vacuum cleaned and dust-free prior to acceptance of the work.

#### Protection of Structures

Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the work or adjacent property to stresses or pressures that will endanger it.

#### Restoration of Structures

The Contractor shall remove such existing structures or monuments as may be necessary for the performance of the work and, if required, shall rebuild the structures or monuments thus removed in as good a condition as found. Contractor shall also repair all existing structures or monuments which may be damaged as a result of the work under this contract.

All curbs, gutters, driveways, sidewalks, and similar structures that are damaged by the installation of the work shall be reconstructed by the Contractor. Reconstruction shall be of the same kind of material with the same finish and in not less than the same dimensions as the original work. All concrete shall be as set forth in the specifications, or as required by County if not so specified. Repairs shall be made by removing and replacing the entire portions between joints or scores and not merely refinishing any damaged part. All work shall match the appearance of the existing improvements as nearly as possible.

All road and streets where the surface is removed, broken or damaged, or in which the ground has caved or settled due to work under this contract, shall be completely resurfaced and brought to the original grade and crown section unless otherwise indicated. Before resurfacing material is placed, edges of pavements shall be trimmed back far enough to provide clean, solid, vertical faces, and shall be free of any loose material. All cultivated areas, lawns, and other surface improvements which are damaged by actions of the Contractor shall be restored as nearly as possible to their original conditions.

### Drainage

Existing drainage facilities shall be maintained throughout the contract time to provide the flow capacities available before commencing work. Drainage conduits shall not be broken, removed, or otherwise interfered with, without permission of the responsible agency.

Where construction requires blocking the flow, flows shall be bypassed as necessary. Stream crossings, blockages, and bypassing shall be accomplished in such a manner as to avoid degradation of downstream water quality. Particular attention shall be given to the avoidance of siltation.

### Environmental Control

The Contractor shall not pollute the construction site or any drainage course or its tributary inlets with fuels, oils, bitumens, acids, insecticides, herbicides or other harmful materials. The Contractor shall comply with all applicable Federal, State, County and municipal laws concerning pollution of waterways. Contractor shall submit a plan for preventing such occurrences if required by County. Special measures shall be taken to prevent chemicals, fuels, oils, greases, bituminous materials, waste washings, herbicides and insecticides, from spilling and entering public waters.

Where the Contractor is required to connect or otherwise work around existing lines carrying sewage or process wastes, Contractor shall perform the work to prevent the spill of sewage and insure the delivery of sewage to the treatment plants. Where the Contractor chooses to provide temporary pumping of sewage, Contractor shall first have the pumping facilities approved by County and shall provide 100 percent standby equipment on 24-hour basis.

The Contractor shall provide the means for preventing or lessening all dust nuisances and damages. Such means shall consist of applying water, dust palliative, or both all in accordance with local ordinances and regulations or as directed by County.

### Record Documents

Contractor shall maintain in a safe place at the site one record copy of all drawings, plans, specifications, addenda, change orders, field orders and written interpretations and clarifications in good order and annotated to show all changes made during construction. These record documents together with all approved samples and a counterpart of all accepted shop drawings will be available to County for reference. Upon completion of the work, these record documents, samples, and shop drawings will be delivered to County.

### As-Built Drawings

The Contractor shall also maintain a neatly marked set of record drawings showing the final locations and layout of all mechanical, electrical, and instrument equipment; piping and conduit, structures, and other facilities. Drawings shall be kept current weekly, with all field instructions and change orders; mechanical, electrical, and instrumentation equipment accommodations; and construction adjustment. Drawings shall be subject to the inspection of the County at all times and progress payments may be withheld if drawings are not current. At the final inspection the Contractor shall submit to County all as-built drawings. Drawings shall be stamped "AS-BUILT", dated and signed by the Contractor. The work will not be formally accepted until as-built drawings are accepted by County.

### Continuing the Work

Contractor shall carry on the work and adhere to the progress schedule during all disputes or disagreements with County. No work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted specifically herein or as Contractor and County may otherwise agree in writing.

### Indemnification

To the fullest extent permitted by laws and regulations, Contractor shall indemnify, defend and hold harmless County and its consultants, agents and employees from and against all claims, damages, losses and expenses, direct, indirect or consequential (including but not limited to fees and charges of engineers, architects, attorneys and other professionals and court and arbitration costs) arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expenses (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (including the work itself) including the loss of use resulting therefrom and (b) is caused in whole or in part by any negligent



act or omission of Contractor, any subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the work or anyone for whose acts any of them may be liable. The Contractor's indemnification obligation shall apply whether or not the act giving rise to such claims, damages, losses and expenses is caused in part by a party indemnified hereunder or arises by or is imposed by law and regulations regardless of the negligence of any such party.

#### Statutory Limitations

In any and all claims against County or any of its consultants, agents or employees by any employee of Contractor, any subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the work or anyone for whose acts any of them may be liable, the indemnification obligation above 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 such subcontractor or other person or organization under workers' compensation acts, disability benefit acts or other employee benefit acts.

#### Related Work at Site

County may perform other work related to the project at the site by County's own forces, have other work performed by utility companies or let other direct contracts therefor which shall contain conditions similar to these. If the fact that such other work is to be performed was not noted in the contract documents, written notice thereof will be given to Contractor prior to starting any such other work; and, if Contractor believes that such performance will involve additional expense to Contractor or requires additional time and the parties are unable to agree as to the extent thereof, Contractor may make a claim therefor as provided for herein. Any difference or conflict arising between the Contractor and any other Contractor employed by County, or between the Contractor and the workers of County with regard to their work, shall be submitted to County and the Contractor shall abide by County's decision in the matter. If the work of the Contractor is delayed because of any facts or omissions of any other Contractor or of County, the Contractor shall on that account have no claim against County other than for an extension of time.

#### Access to Site

Contractor shall afford each utility company or district and other contractor who is a party to such a direct contract (or County, if County is performing the additional work with County's employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work, and shall properly connect and coordinate the work with theirs. Contractor shall do all cutting, fitting and patching of the work that may be required to make its several parts come together properly and integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter their work with the written consent of County and the others whose work will be affected. The duties and responsibilities of Contractor under this paragraph are for the benefit of such utility companies or districts and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between County and such utility companies or districts and other contractors.

#### Acceptance of Work by Others

If any part of Contractor's work depends for proper execution or results upon the work of any such other contractor or utility company or district (or County), Contractor shall inspect and promptly report to County in writing any delays, defects or deficiencies in such work that render it unavailable or unsafe for such proper execution and results. Contractor's failure so to report will constitute an acceptance of the other work as fit and proper for integration with Contractor's work except for latent or nonapparent defects and deficiencies in the other work.

### **ARTICLE XIX: TESTS AND INSPECTIONS**

#### Tests and Inspections Required by Laws or Regulations

If laws or regulations of any public body having jurisdiction require any work (or part thereof) to specifically be inspected, tested or approved, Contractor shall assume full responsibility therefor, pay all costs in connection therewith and furnish County the required certificates of inspection, testing, approval or compliance. Contractor shall also be responsible for and shall pay all costs in connection with any inspection or testing required in connection with County's acceptance of a supplier of materials or