

COUNTY OF NEVADA  
STATE OF CALIFORNIA

SPECIFICATIONS  
FOR

Electric Bus Charging Project  
Nevada County Operations Center (NCOC) Phase-1

COUNTY PROJECT NO. 889830

California Air Resources Board (CARB) Grant No. G20-NS-001  
A sub-grant of U.S. Environmental Protection Agency 2019 and 2020 Targeted  
Air Shed Grant Program #TA98T15301-0 with CARB



**BIDS DUE: July 13, 2023**

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. July 13, 2023

Join on your computer, mobile app or room device

[Click here to join the meeting](#)

Meeting ID: 279 440 301 047

Passcode: oYKvUJ

[Download Teams](#) | [Join on the web](#)

**Or call in (audio only)**

[+1 530-414-9282,,779789136#](#) United States, Truckee

Phone Conference ID: 779 789 136#

[Find a local number](#) | [Reset PIN](#)

**PRE-BID SITE VISIT (RECOMMENDED)**

9:00 am, Wednesday June 28, 2023

at

12350 La Barr Meadows Rd. Grass Valley, CA 95949

The County will conduct the Pre-Bid meeting in person.

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.

(Standard Public Works Contract)

**PROFESSIONAL ENGINEERS SIGNATURE PAGE**

THE SPECIAL PROVISIONS CONTAINED HEREIN HAVE BEEN PREPARED BY OR UNDER THE DIRECTION OF THE FOLLOWING REGISTERED PERSONS.



STEVEN WHITTLESEY, REGISTERED CIVIL ENGINEER  
(CIVIL ENGINEERING ONLY)



SCOTT WHEELER, REGISTERED ELECTRICAL ENGINEER  
(ELECTRICAL ENGINEERING ONLY)

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**ATTACHMENTS**

Attachment 1 – Electrical Specifications

Attachment 2 – ChargePoint Documentation

- Part A - “Express Plus, DC Fast Charging Solution, Site Design Guide”
- Part B - “Express Plus, DC Fast Charging Platform, Installation Guide”
- Part C - Concrete Mounting Template Instructions
- Part D - Express Plus Specifications
- Part E - Packing Slip for Delivered Equipment

Attachment 3 – NCOC Conformed Set

Attachment 4 – Labor Rates

## **CONTRACT TIME LINE**

1. BIDS DUE:           **2:30 pm, Thursday July 13, 2023**
2. BID OPENING:   **2:30 pm, Thursday July 13, 2023**
3. BIDS TO REMAIN OPEN FOR **60 DAYS** FROM DATE OF OPENING OF BIDS.
4. NOTICE OF AWARD DUE WITHIN **60 DAYS** OF OPENING OF BIDS.
5. BID BONDS OF UNSUCCESSFUL BIDDERS TO BE RETURNED WITHIN **10 DAYS** OF AWARD BY COUNTY.
6. SIGNED CONTRACT AND BONDS DUE WITHIN **30 DAYS** OF NOTICE OF AWARD.
7. NOTICE TO PROCEED WITH WORK WILL BE ISSUED WITHIN **14 DAYS** OF CONTRACT SIGNING.
8. CONSTRUCTION MUST BEGIN WITHIN **7 DAYS** AFTER ISSUANCE OF NOTICE TO PROCEED.
9. CONTRACTOR MUST GIVE **48 HOURS** WRITTEN NOTICE OF DATE WORK WILL COMMENCE.
10. PRECONSTRUCTION CONFERENCE WITHIN **7 DAYS** OF NOTICE TO PROCEED.
11. SCHEDULES AND BREAKDOWN OF PHASES OF CONSTRUCTION DUE IN **5 DAYS** AFTER RECEIPT OF NOTICE TO PROCEED.
12. **WORK MUST BE COMPLETED WITHIN 40 WORKING DAYS**

COUNTY OF NEVADA  
DEPARTMENT OF PUBLIC WORKS

**INVITATION TO BID**

FOR:

**Electric Bus Charging Project  
Nevada County Operations Center (NCOC) Phase-1**

COUNTY PROJECT NO.: 889830

**California Air Resources Board (CARB) Grant No. G20-NS-001  
A sub-grant of U.S. Environmental Protection Agency 2019 and 2020 Targeted  
Air Shed Grant Program #TA98T15301-0 with CARB**

**LOCATED AT: Nevada County Operations Center  
12350 La Barr Meadows Road, Grass Valley**

Sealed bids will be received at the office of:

Nevada County Purchasing Division  
Suite 129  
950 Maidu Avenue  
PO BOX 599002  
Nevada City, CA 95959-7902

**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 delivered to the Purchasing Division in the Eric Rood Administrative Center. All bids will be dated and time-stamped once received by the County representative.**

Until 2:30 pm, Thursday, July 13, 2023 local time 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. Bids received after said time will not be accepted and will be returned unopened. All interested parties are invited to attend.

**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 pm, Thursday, July 13,  
2023**

**Join on your computer, mobile app or room device**

[Click here to join the meeting](#)

Meeting ID: 279 440 301 047

Passcode: oYKvUJ

[Download Teams](#) | [Join on the web](#)

**Or call in (audio only)**  
+1 530-414-9282,779789136# United States, Truckee  
Phone Conference ID: 779 789 136#  
[Find a local number](#) | [Reset PIN](#)

The work to be performed includes the following:

The work to be done, in general, consists of the installation of an owner supplied ChargePoint 150kW Express Plus plug-in charging system to accommodate the charging of two buses at the Nevada County Operations Center (NCOC). The ChargePoint Express Plus system consists of the Power Block charging power supply cabinet and the Power Link dispenser cabinet.

Contractor shall supply/install a new circuit breaker and private meter in the existing NCOC main switchboard (MSB) to serve the charging equipment. Contractor shall connect the meter to the County network in the existing Server Room. Contractor shall furnish and install conduit, conductors, pull boxes, etc. to connect the ChargePoint Power Block to the MSB, and also furnish and install conduit, conductors, cable, pull boxes, vault etc. to connect the Power Block to the Power Link. The Power Link shall be installed within the existing asphalt parking area. Contractor shall construct concrete equipment pads and bollards for the Power Block and Power Link. Contractor shall furnish and install earth ground rods/wells. Contractor shall supply/install empty conduits and pull boxes within the existing parking area to allow for the addition of charging systems in future phases. Contractor shall perform all required trenching and excavation, including reinstatement of paved areas with hot mix asphalt and unpaved areas with aggregate base. Contractor will remove existing striping, lay out the bus charging spaces and provide painted parking stripes.

If possible, all work shall be completed without interruption of power supply to the NCOC. If power supply must be interrupted to complete the work, the contractor shall inform the engineer a minimum of 72 hours in advance so appropriate arrangements can be made.

This project has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement number TA98T15301-0 to the California Air Resources Board. The contents of this document do not necessarily reflect the views and policies of the U.S. Environmental Protection Agency, nor does U.S. EPA endorse trade names or recommend the use of commercial products mentioned in this document.

Bids shall be **UNIT PRICES**

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

Complete work within **40** working days.

The Engineer's Estimate for this contract is \$240,000.

#### **DBE Requirements**

Although this project is funded by an EPA Assistance Agreement, for tracking of DBE utilization, in this case Minority Business Enterprise (MBE) and Women Business Enterprise (WBE), the Caltrans DBE approach and forms (modified) shall be used.

The MBE contract goal is **2 percent**



The WBE contract goal is **1 percent**

**“Buy America”**

This project is subject to the “Buy America” provisions of the Surface Transportation Assistance Act of 1982 as amended by the Intermodal Surface Transportation Efficiency act of 1991.

**Domestic Preference Requirements**

Domestic Preference requirements are found in 2 CFR 200.322. Under 2 CFR 200.322(a), to the extent consistent with law, Contractor and Subcontractors should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).” The regulation provides definitions of the terms “Produced in the United States” and “Manufactured products” at 2 CFR 200.322(b).

**Recovered Materials**

As provided in 2 CFR 200.223, Contractor and Subcontractors shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable. This requirement applies when it is consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000.

**Obtaining Contract Documents:** Official copies of the Contract Documents for bidding may be downloaded free of charge at the following link: [www.mynevadacounty.com/purchasing](http://www.mynevadacounty.com/purchasing). Alternatively, these documents may be purchased for approximately \$40.00 in person at the Purchasing Division, 950 Maidu Ave, Nevada City, CA 95959 if arranged and confirmed in advance.

Questions regarding the Work or the contract Documents shall be submitted online on Public Purchase.

Contractor will be required to possess a **CLASS A** contractor’s license or a **combination of classes required by the categories and types of work** included in this contract at the time the bid is submitted. The contractor must be properly licensed as a contractor from contract award through contract acceptance (Public Contract Code § 10164).

A pre-bid walk-through will be held beginning at 9:00 am, Wednesday, June 28, 2023 at the project site at:

Nevada County Operations Center  
12350 La Barr Meadows Rd.  
Grass Valley, CA 95949

**The County will conduct the Pre-Bid meeting in person.**

**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:**

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**Or call in (audio only)**  
[+1 530-414-9282,833772242#](#) United States, Truckee  
Phone Conference ID: 833 772 242#  
[Find a local number](#) | [Reset PIN](#)

DEPARTMENT OF INDUSTRIAL RELATIONS CONTRACTOR REGISTRATION. The Department of Industrial Relations (DIR) has launched an online application at <https://www.dir.ca.gov/Public-Works/Contractor-Registration.html> for public works contractors to meet the requirements of Senate Bill 854. Contractors must register and meet requirements using the new online application before bidding on public works contracts in California.

Contractor and subcontractors shall be bound by all applicable provisions of California Labor Code Section 1771.

In accordance with California Labor Code Section 1771.1, a contractor or subcontractor shall not be qualified to bid on, be listed in a Bid Form, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. Bids cannot be accepted from unregistered contractors except as provided in Section 1771.1.

Contractor and all subcontractors must comply with the requirements of labor code Section 1771.1(a), pertaining to registration of contractors pursuant to Section 1725.5 Registration and all related requirements of those Sections must be maintained throughout the performance of the contract.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Each contractor and subcontractor must furnish certified payroll records to the Labor Commissioner at least monthly.

The County is required to provide notice to the Department of Industrial Relations of any public works contract subject to prevailing wages within five (5) days of the award. The County of Nevada encourages its contractors and subcontractors to use the US. Citizenship and Immigration Services E-Verify system to verify that employees are eligible to work in the United States. Information about the E-Verify system is available at [www.dhs.gov/e-verify](http://www.dhs.gov/e-verify).

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 payment 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. Pursuant to Sections 1770 and 1773 of the Labor Code of the State of California, the County of Nevada has ascertained that prevailing wage rates are applicable to the

work to be done and are available at the State of California Department of Industrial Relations website <http://www.dir.ca.gov/dlsr/PWD/index.htm>. Contractor shall not pay less than the prevailing rate of wages.

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

Attention is directed to the Federal minimum wage rate requirements in the Bid Book. If there is a difference between the minimum wage rates predetermined by the Secretary of Labor and the general prevailing wage rates determined by the Director of the California Department of Industrial Relations for similar classifications of labor, the Contractor and subcontractors shall pay not less than the higher wage rate. The Department will not accept lower State wage rates not specifically included in the Federal minimum wage determinations. This includes "helper" (or other classifications based on hours of experience) or any other classification not appearing in the Federal wage determinations. Where Federal wage determinations do not contain the State wage rate determination otherwise available for use by the Contractor and subcontractors, the Contractor and subcontractors shall pay not less than the Federal minimum wage rate which most closely approximates the duties of the employees in question.

The salary rate (excluding overhead) paid to individual consultants retained by Contractor or Subcontractors shall be limited to the maximum daily rate for a Level IV of the Executive Schedule, available at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages>, to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with their normal travel reimbursement practices). Sub-agreements with firms for services which are awarded using the procurement requirements in Subpart D of 2 CFR 200 are not affected by this limitation unless the terms of the contract provide the recipient with responsibility for the selection, direction, and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation.

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

County reserves the right, acting in its sole discretion, to waive immaterial bid irregularities, to accept or reject any and all bids, or to abandon the Project entirely.

COUNTY OF NEVADA  
STATE OF CALIFORNIA

By: \_\_\_\_\_  
Chair, Board of Supervisors or Purchasing Agent

Dated: \_\_\_\_\_

## INSTRUCTIONS TO BIDDERS

FOR: **Electric Bus Charging Project  
Nevada County Operations Center (NCOC) Phase-1**

LOCATED AT: **Nevada County Operations Center  
12350 La Barr Meadows Road, Grass Valley, 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 to Bid  
Instructions to Bidders  
Checklist of Documents Enclosed by Bidder  
Bid Form  
Bidder's Bond or other security  
Experience Statement  
Subcontractor List  
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 to 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. 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 submit, with their bid, written evidence of bidder's qualifications to perform the work. Bidders will 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 will 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 without submittal of a completed experience statement form or 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 that 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 acknowledgement 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 the 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 to Bid;
2. Instructions 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, Specifications and Estimate (PS&E) including Special Provisions, 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 acknowledgement 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 or 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 ten (10) days before the time announced for opening of the bids. 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.

No addenda will be issued later than four (4) 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:

**USPS, Fed Ex, UPS, etc. to:**

Nevada County Purchasing Division    **or**  
Eric Rood Administration Center  
Suite 129  
950 Maidu Avenue  
PO BOX 599002  
Nevada City, CA 95959-7902

**Hand deliver to:**

Nevada County Purchasing Division  
Eric Rood Administration Center  
Suite 129  
950 Maidu Avenue  
Nevada City, CA 95959-7902

The bid shall be identified on the outside with the bidder's name, license number and address and with the project title: **Electric Bus Charging Project Nevada County Operations Center (NCOC) Phase-1**

Each bid shall be accompanied by the bid security 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" 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 to 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 fax 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 walk-through will be held at **9:00 am, Wednesday, June 28, 2023** at:

Nevada County Operations Center  
12350 La Barr Meadows Rd.  
Grass Valley, CA 95949

## **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 the 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 five (5) feet or more in depth, the amount contained in the bid 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 Invitation to Bid and 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. SUBCONTRACTOR LIST**

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 \$10,000, whichever is greater, per Public Contracts Code Sections 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 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)**

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 ten (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 ten (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 **14 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 to Bid.

## **18. RETURN OF BID GUARANTEES**

Within **ten (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 fax; if by fax, 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 the 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-PROTESTS**

The Contract, if it is awarded, will be awarded to the lowest responsible bidder whose bid complies with the requirements set forth herein. The lowest bidder shall be the bidder submitting the lowest price for the work as specified.

Within **60** days after the time of opening the bids, County will act either to accept a bid or to reject all bids. The acceptance of a bid will be evidenced by a notice of award of contract in writing.

County will use email to notify bidders of the decision of the County on the award of this Bid. Therefore, it is essential that bidders identify one or more contact persons on the Bid Form who have frequent access to email. The County will not be responsible for delivery failure of email due to firewalls, spam filters, or individuals' failure to retrieve email messages. The County will not attempt to re-deliver any messages which fail due to no fault of the County.

The award of contract shall obligate the bidder whose bid is accepted to furnish a performance bond, payment bond, warranty bond, and evidences of insurance (certificates of insurance and endorsements specified in the contract) and execute the agreement set forth in the contract documents.

In addition but not limited to the following, the 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.

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.

### **Protests and Appeals:**

**Bid Protest.** Any bid protest must be in writing, received by the Purchasing Agent at the Rood Administrative Center, 950 Maidu Avenue, Suite 130, Nevada City, CA, before 5:00 p.m. no later than five working days following the notice of intent to award (herein referred to as the Bid Protest Deadline), and must comply with the following requirements:

1. **General.** Only a bidder who has actually submitted a Bid Form is eligible to submit a bid protest. Subcontractors are not eligible to submit bid protests. A bidder may not rely on the bid protest submitted by another bidder, but must timely pursue its own protest. If required by County, the protesting bidder must submit a non-refundable fee in the amount specified by County, based upon County's reasonable costs to administer the bid protest. Any such fee must be submitted to County no later than the Bid Protest Deadline, unless otherwise specified. For purposes of this Section 1, a "working day" means a day that County is open for normal business, and excludes weekends and holidays observed by County.
2. **Protest Contents.** The bid protest must contain a complete statement of the basis for the protest and all supporting documentation. Material submitted after the Bid Protest Deadline will not be considered. The protest must refer to the specific portion or portions of the documents upon which the protest is based. The protest must include the name, address, email address, and telephone number of the person representing the protesting bidder if different from the protesting bidder.
3. **Copy to Protested Bidder(s).** A copy of the protest and all supporting documents must be concurrently transmitted by fax or by email, by or before the Bid Protest Deadline, to the protested bidder and any other bidder who has a reasonable prospect of receiving an award depending upon the outcome of the protest.
4. **Bidders Response to Protest.** The protested bidder may submit to the County a written response to the protest, provided the response is received before 5:00 p.m., within two working days after the Bid Protest Deadline or after actual receipt of the bid protest, whichever is sooner (the "Response Deadline"). The response must include all supporting documentation. Material submitted after the Response Deadline will not be considered. The response must include the name, address, email address, and telephone number of the person representing the protested bidder if different from the protested bidder.
  - 4.1 **Copy to Protesting Bidder.** A copy of the response and all supporting documents must be concurrently transmitted by fax or by email, by or before the Bid Protest Deadline, to the protesting bidder and any other bidder who has a reasonable prospect of receiving an award depending upon the outcome of the protest.
5. **Exclusive Remedy.** The procedure and time limits set forth in this section are mandatory and are the bidder's sole and exclusive remedy in the event of bid protest. A bidder's failure

to comply with these procedures will constitute a waiver of any right to further pursue a bid protest, including filing a Government Code Claim or initiation of legal proceedings.

6. Right to Award. The County Board of Supervisors reserves the right to award the Contract to the bidder it has determined to be the responsive, responsible bidder submitting the lowest bid, and to issue a notice to proceed with the Work notwithstanding any pending or continuing challenge to its determination.

#### **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 **30 days**. The date of execution of the contract shall be left blank for filling in by County.

County will execute all copies, insert the date of signing the contract on the contract and bond forms and on the power-of-attorney and distribute one copy each to County and Contractor. Contractor shall be responsible for distribution of copies to the Surety(ies).

Notwithstanding any action by County to the contrary or by the Board of Supervisors in accepting a bid, there shall be no contract between bidder and County until the contract documents are signed by County.

Failure of the Contractor to execute the contract within the specified time shall be just cause for withdrawal of the contract award by the County and forfeiture by the Contractor of the bid guaranty bond.

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

County shall give the successful bidder written notice to proceed with the work within **14 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 one hundred percent (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 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 (must be signed by corporate surety); or Cashier's check; or Certified Check; or Cash		
4. EXPERIENCE STATEMENT (signed)		
5. SUBCONTRACTOR LIST (signed)		

6. BIDDER'S REPRESENTATIONS: (BIDDER'S QUALIFICATIONS, WORKER'S COMPENSATION CERTIFICATION, NONCOLLUSION DECLARATION)		
7. PUBLIC CONTRACT CODE: 10285.1, 10162, AND 10232 (signed)		

# BID FORM

(Nevada County Standard Form Bid Document)

BID TO THE COUNTY OF NEVADA FOR: \_\_\_\_\_

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 wage rates set forth therein) and the Contract annexed hereto.

The work to be done is shown on project documents entitled: \_\_\_\_\_

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:

Item No.	Item	Unit of Measure	Estimated Quantity	Item Price	Total
1	Water Pollution Control Program	LS	1		
2	Traffic Control	LS	1		
3	Pothole Utilities	LS	1		
4	Circuit Breaker and Meter to Main Switchboard	LS	1		
5	Pull Box	EA	7		
6	Utility Vault	EA	1		
7	Ground Rod in Ground Well	EA	2		
8	Bollard	EA	3		
9	Removable Bollard	EA	4		
10	EVCS-1 Power Block Equipment Pad and Power Link Equipment Pad	LS	1		
11	EVCS-1 Conduits and Conductors	LS	1		
12	Conduits for Future EVCS	LS	1		
13	EVCS-1 Power Block (OFCl) and Power Link (OFCl)	LS	1		
14	Remove Existing Striping and Restripe Bus Parking Spaces	LS	1		

15	As-Built Drawings	LS	1		
16	Rock Excavation	CY	10		
				<b>TOTAL:</b>	

Note: All items shown in the table above are Contractor Furnished Contractor Installed (CFCI) apart from the EVCS-1 ChargePoint Power Block and Power Link equipment only which are Owner Furnished Contractor Installed (OFCI).

TOTAL OF BID (in figures): \_\_\_\_\_

TOTAL OF BID (in words): \_\_\_\_\_

Bidder shall bid each item. Failure to bid an item shall be just cause for considering the bid as non-responsive. County reserves the right to reject all bids

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 by the bid, in accordance with all requirements of the contract.

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 therefore the following

**Contract shall be awarded based upon the Base Bid Package (Items 1 – 16)**

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 List and Bidder's Representations form and Public Contract Code 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 certified, 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 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 thereto.

If this bid shall be accepted and the undersigned shall fail to contract as aforesaid, and to give the performance bond and payment 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:

\_\_\_\_\_  
("Bidder's Bond", "Cashier's Check", "Certified Check" or "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(s)

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

CITY, STATE & ZIP CODE: \_\_\_\_\_

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 contractor, 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 contractor above named, submitted by said contractor 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 contractor 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 \_\_\_\_\_, for:

\_\_\_\_\_

NOW, THEREFORE, if the aforesaid contractor 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  
Contractor

\_\_\_\_\_ Seal

\_\_\_\_\_ Seal

\_\_\_\_\_ Seal  
Surety

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

## 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: \_\_\_\_\_

2.) PROJECT NAME: \_\_\_\_\_  
DATE: \_\_\_\_\_  
INSPECTOR NAME \_\_\_\_\_  
PHONE # \_\_\_\_\_  
CONTRACT AMOUNT: \_\_\_\_\_  
WORK PERFORMED: \_\_\_\_\_

3.) PROJECT NAME: \_\_\_\_\_  
DATE: \_\_\_\_\_  
INSPECTOR NAME \_\_\_\_\_  
PHONE # \_\_\_\_\_  
CONTRACT AMOUNT: \_\_\_\_\_  
WORK PERFORMED: \_\_\_\_\_

4.) PROJECT NAME: \_\_\_\_\_  
DATE: \_\_\_\_\_  
INSPECTOR NAME \_\_\_\_\_  
PHONE # \_\_\_\_\_  
CONTRACT AMOUNT: \_\_\_\_\_  
WORK PERFORMED: \_\_\_\_\_

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

### EXHIBIT 12-B Bidder's List of Subcontractors (DBE and NON-DBE) Part 1

As of March 1, 2015 Contractors (and sub-contractors) wishing to bid on public works contracts must be registered with the State Division of Industrial Relations and certified to bid on Public Works contracts. Please register at <https://www.dir.ca.gov/Public-Works/Contractor-Registration.html>. The local agency will verify registration of all contractors and subcontractors on public works projects at bid and thereafter annually to assure that yearly registration is maintained throughout the life of the project.

In accordance with Title 49, Section 26.11 of the Code of Federal Regulations, and Section 4104 of the Public Contract Code of the State of California, as amended, the following information is required for each sub-contractor who will perform work amounting to more than one half of one percent (0.5%) of the Total Base Bid or \$10,000 (whichever is greater).

FEDERAL PROJECT NUMBER: \_\_\_\_\_

Photocopy this form for additional firms.

Subcontractor Name & Location	Line Item & Description	Subcontract Amount	Percentage of Bid Item Subcontracted	Contractor License Number	DBE (Y/N)	DBE Cert Number	Annual Gross Receipts
				DIR Reg Number			
NAME							< \$1 million
							< \$5 million
							< \$10 million
City, State							< \$15 million
							Age of Firm in years
NAME							< \$1 million
							< \$5 million
							< \$10 million
City, State							< \$15 million
							Age of Firm in years
NAME							< \$1 million
							< \$5 million
							< \$10 million
City, State							< \$15 million
							Age of Firm in years
NAME							< \$1 million
							< \$5 million
							< \$10 million
City, State							< \$15 million
							Age of Firm in years
NAME							< \$1 million
							< \$5 million
							< \$10 million
City, State							< \$15 million
							Age of Firm in years
NAME							< \$1 million
							< \$5 million
							< \$10 million
City, State							< \$15 million
							Age of Firm in years
NAME							< \$1 million
							< \$5 million
							< \$10 million
City, State							< \$15 million
							Age of Firm in years
NAME							< \$1 million
							< \$5 million
							< \$10 million
City, State							< \$15 million
							Age of Firm in years

Distribution – Original: Local Agency File; Copy: DLAE w/Award Package

### EXHIBIT 12-B Bidder's List of Subcontractors (DBE and NON-DBE) Part 2

In accordance with Title 49, Section 26 of the Code of Federal Regulations, the Bidder shall list all subcontractors who provided a quote or bid but **were not selected** to participate as a subcontractor on this project.

FEDERAL PROJECT NUMBER: \_\_\_\_\_

Photocopy this form for additional firms.

Subcontractor Name & Location	Line Item & Description	Subcontract Amount	Percentage of Bid Item Subcontracted	Contractor License Number	DBE (Y/N)	DBE Cert Number	Annual Gross Receipts	
				DIR Reg Number			< \$1 million	Age of Firm in years
NAME							< \$1 million	
							< \$5 million	
							< \$10 million	
City, State							< \$15 million	
							Age of Firm in years	
NAME							< \$1 million	
							< \$5 million	
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City, State							< \$15 million	
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City, State							< \$15 million	
							Age of Firm in years	
NAME							< \$1 million	
							< \$5 million	
							< \$10 million	
City, State							< \$15 million	
							Age of Firm in years	

Distribution – Original: Local Agency File; Copy: DLAE w/Award Package

## 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.

Date: \_\_\_\_\_

Bidder: \_\_\_\_\_

By: \_\_\_\_\_



## PUBLIC CONTRACT CODE

### PUBLIC CONTRACT SECTION 10285.1 STATEMENT

In conformance with Public Contract Code Section 10285.1 (Chapter 376, Stats. 1985), the bidder hereby declares under penalty of perjury under the laws of the State of California that the bidder **has** \_\_\_\_, **has not** \_\_\_\_ been convicted within the preceding three years of any offenses referred to in that section, including any charge of fraud, bribery, collusion, conspiracy, or any other act in violation of any state or Federal antitrust law in connection with the bidding upon, award of, or performance of, any public works contract, as defined in Public Contract Code Section 1101, with any public entity, as defined in Public Contract Code Section 1100, including the Regents of the University of California or the Trustees of the California State University. The term "bidder" is understood to include any partner, member, officer, director, responsible managing officer, or responsible managing employee thereof, as referred to in Section 10285.1.

Note: The bidder must place a checkmark after "has" or "has not" in one of the blank spaces provided. The above Statement is part of the Bid Form. Signing this Bid Form on the signature portion thereof shall also constitute signature of this Statement. Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

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### PUBLIC CONTRACT CODE SECTION 10162 QUESTIONNAIRE

In conformance with Public Contract Code Section 10162, the Bidder shall complete, under penalty of perjury, the following questionnaire:

Has the bidder, any officer of the bidder, or any employee of the bidder who has a proprietary interest in the bidder, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or a safety regulation?

Yes

No

If the answer is yes, explain the circumstances in the following space.

---

### PUBLIC CONTRACT CODE 10232 STATEMENT

In conformance with Public Contract Code Section 10232, the Contractor, hereby states under penalty of perjury, that no more than one final unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of a federal court which orders the Contractor to comply with an order of the National Labor Relations Board.

Note: The above Statement and Questionnaire are part of the Bid Form. Signing this Bid Form on the signature portion thereof shall also constitute signature of this Statement and Questionnaire. Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

---

Signature of Contractor

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## EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

The bidder \_\_\_\_\_,  
proposed subcontractor \_\_\_\_\_, hereby  
certifies that he has \_\_\_\_ , has not \_\_\_\_ , participated in a previous contract or subcontract subject to  
the equal opportunity clauses, as required by Executive Orders 10925, 11114, or 11246, and that,  
where required, he has filed with the Joint Reporting Committee, the Director of the Office of  
Federal Contract Compliance, a Federal Government contracting or administering agency, or the  
former President's Committee on Equal Employment Opportunity, all reports due under the  
applicable filing requirements.

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

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

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

**NONCOLLUSION AFFIDAVIT**  
(Title 23 United States Code Section 112 and  
Public Contract Code Section 7106)

To the COUNTY of NEVADA  
DEPARTMENT OF PUBLIC WORKS.

In conformance with Title 23 United States Code Section 112 and Public Contract Code 7106 the bidder declares 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.

Note: The above Non-collusion Affidavit is part of the Bid Form. Signing this Bid Form on the signature portion thereof shall also constitute signature of this Non-collusion Affidavit.

Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

## DEBARMENT AND SUSPENSION CERTIFICATION

### TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29

The bidder, under penalty of perjury, certifies that, except as noted below, he/she or any other person associated therewith in the capacity of owner, partner, director, officer, manager:

- is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency;
- has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal agency within the past 3 years;
- does not have a proposed debarment pending; and
- has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessarily result in denial of award but will be considered in determining bidder responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Notes: Providing false information may result in criminal prosecution or administrative sanctions.

The above certification is part of the Bid Form. Signing this Bid Form on the signature portion thereof shall also constitute signature of this Certification.

---

## **NONLOBBYING CERTIFICATION FOR FEDERAL-AID CONTRACTS**

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in conformance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

## DISCLOSURE OF LOBBYING ACTIVITIES (SF-LLL)

COMPLETE THIS FORM TO DISCLOSE LOBBYING ACTIVITIES PURSUANT TO 31 U.S.C. 1352

<p><b>1. Type of Federal Action:</b></p> <input type="checkbox"/> <p>a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance</p>	<p><b>2. Status of Federal Action:</b></p> <input type="checkbox"/> <p>a. bid/offer/application b. initial award a. post-award</p>	<p><b>3. Report Type:</b></p> <input type="checkbox"/> <p>a. initial b. material change</p> <p style="text-align: right;"><b>For Material Change Only:</b> year ____ quarter ____ date of last report ____</p>
<p><b>4. Name and Address of Reporting Entity</b></p> <p><input type="checkbox"/> Prime      <input type="checkbox"/> Subawardee Tier____, if known</p> <p>Congressional District, if known</p>	<p><b>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</b></p> <p>Congressional District, if known</p>	
<p><b>6. Federal Department/Agency:</b></p>	<p><b>7. Federal Program Name/Description:</b></p> <p>CFDA Number, if applicable _____</p>	
<p><b>8. Federal Action Number, if known:</b></p>	<p><b>9. Award Amount, if known:</b></p>	
<p><b>10. a. Name and Address of Lobby Entity</b> (If individual, last name, first name, MI)</p>	<p><b>b. Individuals Performing Services</b> (including address if different from No. 10a) (last,first, MI)</p>	
(attach Continuation Sheet(s) if necessary)		
<p><b>11. Amount of Payment (check all that apply)</b></p> <p>\$ _____ <input type="checkbox"/> Actual    <input type="checkbox"/> planned</p>	<p><b>13. Type of Payment (check all that apply)</b></p> <p><input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other, specify _____</p>	
<p><b>12. Form of Payment (check all that apply):</b></p> <p><input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ value _____</p>		
<p><b>14. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 11:</b></p> <p style="text-align: center;">(attach Continuation Sheet(s) if necessary)</p>		
<p><b>15. Continuation Sheet(s) attached: Yes</b> <input type="checkbox"/> <b>No</b> <input type="checkbox"/></p>		
<p><b>16. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying reliance was placed by the tier above when his transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</b></p>	<p>Signature: _____</p> <p>Print Name: _____</p> <p>Title: _____</p> <p>Telephone No.: _____ Date: _____</p>	
<p><b>Federal Use Only:</b></p>		
<p>Authorized for Local Reproduction Standard Form – LLL (Rev 09-12-97)</p>		

## **INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES**

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of covered Federal action or a material change to previous filing pursuant to title 31 U.S.C. section 1352. The filing of a form is required for such payment or agreement to make payment to lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress an officer or employee of Congress or an employee of a Member of Congress in connection with a covered Federal action. Attach a continuation sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence, the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last, previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District if known. Check the appropriate classification of the reporting entity that designates if it is or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the first tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee" then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organization level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identification in item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract grant. or loan award number, the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitments for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
(b) Enter the full names of the individual(s) performing services and include full address if different from 10 (a). Enter Last Name, First Name and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity not just time spent in actual contact with Federal officials. Identify the Federal officer(s) or employee(s) contacted or the officer(s) employee(s) or Member(s) of Congress that were contacted.
15. Check whether or not a continuation sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name title and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

SF-LLL-Instructions Rev. 06-04-90



**REQUIRED CONTRACT PROVISIONS  
FEDERAL-AID CONSTRUCTION CONTRACTS**

- I. General
- II. Nondiscrimination
- III. Non-segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

**ATTACHMENTS**

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

**I. GENERAL**

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work

performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

**II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)**

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR Part 230, Subpart A, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

**1. Equal Employment Opportunity:** Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (see 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

**2. EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

**3. Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

**4. Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

**5. Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action

within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

#### **6. Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

**7. Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide

sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

**8. Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

**9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

#### **10. Assurances Required:**

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

**11. Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

### III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

### IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

#### 1. Minimum wages (29 CFR 5.5)

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

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

b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

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

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

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

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

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

## 2. Withholding (29 CFR 5.5)

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics,

including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

## 3. Payrolls and basic records (29 CFR 5.5)

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

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or

subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

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

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

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

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### 4. Apprentices and trainees (29 CFR 5.5)

##### a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State

Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

##### b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the

corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

**6. Subcontracts.** The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

**7. Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

**9. Disputes concerning labor standards.** As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor

set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

#### **10. Certification of eligibility (29 CFR 5.5)**

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

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

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

#### **V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

**1. Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

**2. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph 1 of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 of this section, in the sum currently provided in 29 CFR 5.5(b)(2)\* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 of this section. 29 CFR 5.5.

\* \$27 as of January 23, 2019 (See 84 FR 213-01, 218) as may be adjusted annually by the Department of Labor; pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990).

**3. Withholding for unpaid wages and liquidated damages.** The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 of this section. 29 CFR 5.5.

**4. Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section. 29 CFR 5.5.

## **VI. SUBLETTING OR ASSIGNING THE CONTRACT**

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or

equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on longstanding interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

## **VII. SAFETY: ACCIDENT PREVENTION**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance



with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

#### **VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

#### **IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)**

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.326.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders

or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.326.

#### **X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

##### **1. Instructions for Certification – First Tier Participants:**

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant

who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov>). 2 CFR 180.300, 180.320, and 180.325.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

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## **2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:**

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

## **3. Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is

submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contractor). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers to any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

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**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(a) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(b) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(c) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal.

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**XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000. 49 CFR Part 20, App. A.

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier

subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

## **XII. USE OF UNITED STATES-FLAG VESSELS:**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.
2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

## **DISADVANTAGED BUSINESS ENTERPRISE (DBE) FORMS**

Although this project is funded by an EPA Assistance Agreement, for tracking of DBE utilization (in this case MBE and WBE), the Caltrans DBE approach and forms (modified) shall be used. Required DBE forms follow.

The MBE contract goal is **2 percent**

The WBE contract goal is **1 percent**

Refer to Section 2-1.12 of the Special Provisions for further details on DBE commitment, utilization, and documentation.

**EXHIBIT 15-G CONSTRUCTION CONTRACT DBE COMMITMENT**  
**EXHIBIT 15-G CONSTRUCTION CONTRACT DBE (MBE) COMMITMENT**

1. Local Agency: \_\_\_\_\_ 2. Contract DBE Goal: \_\_\_\_\_  
 3. Project Description: \_\_\_\_\_ **MBE: 2%**  
 4. Project Location: \_\_\_\_\_  
 5. Bidder's Name: \_\_\_\_\_ 6. Prime Certified DBE:  7. Bid Amount: \_\_\_\_\_  
 8. Total Dollar Amount for **ALL** Subcontractors: \_\_\_\_\_ 9. Total Number of **ALL** Subcontractors: \_\_\_\_\_

10. Bid Item Number	11. Description of Work, Service, or Materials Supplied	12. DBE Certification Number	13. DBE Contact Information (Must be certified on the date bids are opened)	14. DBE Dollar Amount

<b>Local Agency to Complete this Section upon Execution of Award</b>		<b>15. TOTAL CLAIMED DBE PARTICIPATION</b>	\$
21. Local Agency Contract Number: _____ 22. Federal-Aid Project Number: _____ 23. Bid Opening Date: _____ 24. Contract Award Date: _____ 25. Award Amount: _____			%
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.  26. Local Agency Representative's Signature _____ 27. Date _____ 28. Local Agency Representative's Name _____ 29. Phone _____ 30. Local Agency Representative's Title _____		IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Names of First Tier DBE Subcontractors and their respective item(s) of work listed above must be consistent, where applicable with the names and items of the work in the "Subcontractor List" submitted with your bid. Written confirmation of each listed DBE is required.  16. Preparer's Signature _____ 17. Date _____ 18. Preparer's Name _____ 19. Phone _____ 20. Preparer's Title _____	

- DISTRIBUTION: 1. Original – Local Agency  
 2. Copy – Caltrans District Local Assistance Engineer (DLAE). Failure to submit to DLAE within 30 days of contract execution may result in de-obligation of federal funds on contract.  
 3. Include additional copy with award package.

**EXHIBIT 15-G CONSTRUCTION CONTRACT DBE (WBE) COMMITMENT**

1. Local Agency: \_\_\_\_\_ 2. Contract DBE Goal: WBE: 1%
3. Project Description: \_\_\_\_\_
4. Project Location: \_\_\_\_\_
5. Bidder's Name: \_\_\_\_\_ 6. Prime Certified DBE:  7. Bid Amount: \_\_\_\_\_
8. Total Dollar Amount for **ALL** Subcontractors: \_\_\_\_\_ 9. Total Number of **ALL** Subcontractors: \_\_\_\_\_

10. Bid Item Number	11. Description of Work, Service, or Materials Supplied	12. <sup>WBE</sup> DBE Certification Number	13. <sup>WBE</sup> DBE Contact Information (Must be certified on the date bids are opened)	14. <sup>WBE</sup> Dollar Amount
<b>Local Agency to Complete this Section upon Execution of Award</b> 21. Local Agency Contract Number: _____ 22. Federal-Aid Project Number: _____ 23. Bid Opening Date: _____ 24. Contract Award Date: _____ 25. Award Amount: _____			<b>15. TOTAL CLAIMED <sup>WBE</sup> DBE PARTICIPATION</b> \$ _____ % _____	IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Names of the First Tier DBE Subcontractors and their respective item(s) of work listed above must be consistent, where applicable with the names and items of the work in the "Subcontractor List" submitted with your bid. Written confirmation of each listed DBE is required.
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.			16. Preparer's Signature _____ 17. Date _____ 18. Preparer's Name _____ 19. Phone _____ 20. Preparer's Title _____	26. Local Agency Representative's Signature _____ 27. Date _____ 28. Local Agency Representative's Name _____ 29. Phone _____ 30. Local Agency Representative's Title _____

- DISTRIBUTION: 1. Original – Local Agency  
 2. Copy – Caltrans District Local Assistance Engineer (DLAE). Failure to submit to DLAE within 30 days of contract execution may result in de-obligation of federal funds on contract.  
 3. Include additional copy with award package.

# INSTRUCTIONS - CONSTRUCTION CONTRACT DBE COMMITMENT

**ADA Notice:** For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

## INSTRUCTIONS – CONSTRUCTION CONTRACT DBE COMMITMENT

### CONTRACTOR SECTION

1. **Local Agency** - Enter the name of the local agency that is administering the contract.
2. **Contract DBE Goal** - Enter the contract DBE goal percentage as it appears on the project advertisement.
3. **Project Location** - Enter the project location(s) as it appears on the project advertisement.
4. **Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc).
5. **Bidder's Name** - Enter the contractor's firm name.
6. **Prime Certified DBE** - Check box if prime contractor is a certified DBE.
7. **Bid Amount** - Enter the total contract bid dollar amount for the prime contractor.
8. **Total Dollar Amount for ALL Subcontractors** – Enter the total dollar amount for all subcontracted contractors. SUM = (DBEs + all Non-DBEs). Do not include the prime contractor information in this count.
9. **Total number of ALL subcontractors** – Enter the total number of all subcontracted contractors. SUM = (DBEs + all Non-DBEs). Do not include the prime contractor information in this count.
10. **Bid Item Number** - Enter bid item number for work, services, or materials supplied to be provided.
11. **Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials to be provided. Indicate all work to be performed by DBEs including work performed by the prime contractor's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
12. **DBE Certification Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
13. **DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted contractors. Also, enter the prime contractor's name and phone number, if the prime is a DBE.
14. **DBE Dollar Amount** - Enter the subcontracted dollar amount of the work to be performed or service to be provided. Include the prime contractor if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
15. **Total Claimed DBE Participation - \$:** Enter the total dollar amounts entered in the "DBE Dollar Amount" column. **%:** Enter the total DBE participation claimed ("Total Claimed DBE Participation Dollars" divided by item "Bid Amount"). If the total % claimed is less than item "Contract DBE Goal," an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H DBE Information - Good Faith Efforts of the LAPM).
16. **Preparer's Signature** - The person completing the DBE commitment form on behalf of the contractor's firm must sign their name.
17. **Date** - Enter the date the DBE commitment form is signed by the contractor's preparer.
18. **Preparer's Name** - Enter the name of the person preparing and signing the contractor's DBE commitment form.
19. **Phone** - Enter the area code and phone number of the person signing the contractor's DBE commitment form.
20. **Preparer's Title** - Enter the position/title of the person signing the contractor's DBE commitment form.

### LOCAL AGENCY SECTION

21. **Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
22. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number(s).
23. **Bid Opening Date** - Enter the date contract bids were opened.
24. **Contract Award Date** - Enter the date the contract was executed.
25. **Award Amount** – Enter the contract award amount as stated in the executed contract.
26. **Local Agency Representative's Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Contractor Section of this form is complete and accurate.
27. **Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
28. **Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the contractor's DBE commitment form.
29. **Phone** - Enter the area code and phone number of the person signing the contractor's DBE commitment form.



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**30. Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the contractor's DBE commitment form.

## **INSTRUCTIONS - LOCAL AGENCY BIDDER (EXHIBIT 15-G) CONSTRUCTION CONTRACT DBE COMMITMENT**

### **ALL BIDDERS:**

**PLEASE NOTE: This information may be submitted with your bid. If it is not, and you are the apparent low bidder or the second or third low bidder, it must be submitted and received as specified in the Special Provisions. Failure to submit the required DBE commitment will be grounds for finding the bid nonresponsive**

The form requires specific information regarding the construction contract: Local Agency, Contract DBE Goal, Project Description, Project Location, Bidder's Name, if Prime Contractor is certified DBE, Bid Amount, Total Dollar Amount for All Subcontractors, Total number of All Subcontractors.

The form has columns for the Bid Item Number and Description of Work, Service, or Materials Supplied by DBEs. Prime contractors shall indicate all work to be performed by DBEs including, if the prime is a DBE, work performed by its own forces, if a DBE. The DBE shall provide a certification number to the Contractor and expiration date. Enter the DBE prime's and subcontractors' certification numbers. The form has a column for the contact information of DBE contractors to perform the work (who must be certified on the date bids are opened - include the DBE name, address and phone number).

**IMPORTANT:** Identify **all** DBE firms participating in the project regardless of tier. Names of the First-Tier DBE Subcontractors and their respective item(s) of work listed should be consistent, where applicable, with the names and items of work in the "Subcontractor List" submitted with your bid.

There is a column for the DBE participation dollar amount. Enter the Total Claimed DBE Participation dollars and percentage amount of items of work submitted with your bid pursuant to the Special Provisions. (If 100% of item is not to be performed or furnished by the DBE, describe exact portion of time to be performed or furnished by the DBE.) See Section "Disadvantaged Business Enterprise (DBE)," of the Special Provisions (construction contracts), to determine how to count the participation of DBE firms.

Exhibit 15-G must be signed and dated by the person bidding. Also list a phone number in the space provided and print the name of the person to contact.

**Local agencies** should complete the Local Agency Contract Award, Federal-aid Project Number, Federal Share, Contract Award Date fields and verify that all information is complete and accurate before signing and filing.

## **DBE GOOD FAITH EFFORTS**

### **EPA Good Faith Efforts**

The EPA requires the contractor to make the following Good Faith Efforts (GFE) towards the MBE (2%) and WBE (1%) Objectives.

1. Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities.
2. Make information on forthcoming opportunities available to DBEs, arrange time frames for contracts, and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
3. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. This will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
4. Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
5. Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

### **If the Contractor Cannot Meet the DBE Commitments**

If the Contractor cannot meet the DBE objectives on their Exhibit 15-G Construction Contract DBE Commitment forms (one form for MBE, one for WBE) then the GFE areas above shall be addressed and included when completing Exhibit 15-H: Proposer/Contractor Good Faith Efforts. Exhibit 15-G shall be completed separately for MBE and WBE as needed.

**EXHIBIT 15-H: PROPOSER/CONTRACTOR GOOD FAITH EFFORTS**

**EXHIBIT 15-H: PROPOSER/CONTRACTOR GOOD FAITH EFFORTS**

Cost Proposal Due Date \_\_\_\_\_ PE/CE

Federal-aid Project No(s). \_\_\_\_\_ Bid Opening Date \_\_\_\_\_ CON

The \_\_\_\_\_ established a Disadvantaged Business Enterprise (DBE) goal of \_\_\_\_\_ X% for this contract. The information provided herein shows the required good faith efforts to meet or exceed the DBE contract goal.

Proposers or bidders submit the following information to document their good faith efforts within five (5) calendar days from cost proposal due date or bid opening. Proposers and bidders are recommended to submit the following information even if the Exhibit 10-O1: Consultant Proposal DBE Commitments or Exhibit 15-G: Construction Contract DBE Commitment indicate that the proposer or bidder has met the DBE goal. This form protects the proposer's or bidder's eligibility for award of the contract if the administering agency determines that the bidder failed to meet the goal for various reasons, e.g., a DBE firm was not certified at bid opening, or the bidder made a mathematical error.

The following items are listed in the Section entitled "Submission of DBE Commitment" of the Special Provisions, **please attach additional sheets as needed:**

- A. The names and dates of each publication in which a request for DBE participation for this project was placed by the bidder (please attach copies of advertisements or proofs of publication):

Publications	Dates of Advertisement

- B. The names and dates of written notices sent to certified DBEs soliciting bids for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the DBEs were interested (please attach copies of solicitations, telephone records, fax confirmations, etc.):

Names of DBEs Solicited	Date of Initial Solicitation	Follow Up Methods and Dates

- C. The items of work made available to DBE firms including those unbundled contract work items into economically feasible units to facilitate DBE participation. It is the bidder's responsibility to demonstrate that sufficient work to facilitate DBE participation in order to meet or exceed the DBE contract goal.

Items of Work	Proposer or Bidder Normally Performs Item (Y/N)	Breakdown of Items	Amount (\$)	Percentage Of Contract
	Pick			0.00%
	Pick			0.00%
	Pick			0.00%
	Pick			0.00%

- D. The names, addresses and phone numbers of rejected DBE firms, the reasons for the bidder's rejection of the DBEs, the firms selected for that work (please attach copies of quotes from the firms involved), and the price difference for each DBE if the selected firm is not a DBE:

Names, addresses and phone numbers of rejected DBEs and the reasons for the bidder's rejection of the DBEs:

Names, addresses and phone numbers of firms selected for the work above:

- E. Efforts (e.g. in advertisements and solicitations) made to assist interested DBEs in obtaining information related to the plans, specifications and requirements for the work which was provided to DBEs:

F. Efforts (e.g. in advertisements and solicitations) made to assist interested DBEs in obtaining bonding, lines of credit or insurance, necessary equipment, supplies, materials, or related assistance or services, excluding supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate:

G. The names of agencies, organizations or groups contacted to provide assistance in contacting, recruiting and using DBE firms (please attach copies of requests to agencies and any responses received, i.e., lists, Internet page download, etc.):

Name of Agency/Organization	Method/Date of Contact	Results
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

H. Any additional data to support a demonstration of good faith efforts:







## EXHIBIT 9-F INSTRUCTIONS

### I. Purpose:

Title 49 of the Code of Federal Regulations (CFR), Part 26.37(c) requires recipients of federal-aid funding to “provide a running tally of actual attainments, including a means of comparing these attainments to commitments.” This requirement does not apply to projects that do not have any federal funding.

### II. Policy:

- A. To comply with 49 CFR 26.37(c), the prime contractors/consultants must complete the Exhibit 9-F: Disadvantaged Business Enterprise Running Tally of Payments and email it to ~~business.support.unit@dot.ca.gov~~ and their local administering agencies after submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month. Submission of this Exhibit is required until all DBE subcontracting or material supply activity on the entire project is completed.
- ~~B. Save this form using the following naming convention, [9 digit Federal Aid number] [yyymm] [ss].xlsx. [yyymm] is the reporting period. [ss] is two digit sequential numbering, applicable when consultant or contractor has more than one 9-F form to complete per pay period. For example, a valid saved file could read: 1234(567)-202207-01.xlsx.~~

### III. Instructions:

- (1) **Reporting Period (mm-yyyy):** Indicate the month and year of payments being reported.
- (2) **Federal Aid Project Number:** ~~Enter the 7 digit federal aid project number of the lead project on the contract. E.g. 5002(123) is a valid Federal Aid Project Number. Done~~
- (3) **Caltrans District:** Enter the appropriate Caltrans District number as 1 through 12. **Done**
- (4) **Local Agency:** List the local agency's name. **Done**
- (5) **Project Number:** List the local agency assigned project number. **Done**
- (6) **Total Contract Award Amount (\$):** Enter the total current contract award amount of the project.
- (7) **DBE Goal Percentage (%):** Enter the contract DBE goal percentage as it appears on the project advertisement. **Done**
- (8) **DBE Committed Percentage (%):** Enter percentage of the Prime contract committed to DBE firms.
- (9) **Business Name:** List the name for the prime contractor/consultant as identified in Procedure 9 above.
- (10) **Amount Prime's Invoice This Period (\$):** Enter the total invoice amount that prime submitted for reimbursement this period.
- (11) **Amount Paid to Prime To Date (\$):** Enter the total payment that is paid to the Prime to date.
- (12) **Prime certified DBE:** Enter "Yes" if Prime Contractor/Consultant is certified DBE and "No" otherwise.

DBE Prime contractor needs to fill in from procedure (14) to (21) for payments to DBE Subcontractors and DBE Prime's self-performing.

**Note:** For Procedures (14) through (21) below, insert rows as needed to list all DBEs included on Exhibits 10-O2 or 15-G, and any other DBEs that were utilized regardless of tier.

- (13) **DBE Firm name:** List the DBE's firm name.

- (14) **DBE Cert. Number:** List the DBE's certification number as listed in the California Unified Certification Program (CUCP) database.
- (15) **Contract Type:** Select the most appropriate Subcontractor's contract type (Agent, Consultant, Joint Venture, Manufacturer, Prime, Regular Dealer, Subcontractor, Truck/Haul, Service Provider from dropdown list.)
- (16) **Date of Payment:** List current check date when a check is issued to the DBE for work performed by the DBE.
- (17) **Amount of This Payment:** List the total amount paid to the DBE this period.
- (18) **Amount Paid to Date:** List the total amount paid to this DBE to date. This should be a total of past payments plus payment for the current work just invoiced to the Local Agency.
- (19) **Amount Committed to This DBE Firm:** Copy the information from the agency signed Exhibit 10-O2 or 15-G. If the listed DBE was not originally committed to, type "0."
- (20) **Comments:** Add appropriate notes if a DBE subcontract was terminated, a DBE subcontract was added, if change orders impacted the DBE's payments (include good faith efforts the prime contractor/consultant implemented), if task orders weren't issued, etc.
- (21) **Prime Contractor/Consultant Manager's Name:** Enter the manager's name of the prime contractor/consultant of the project.
- (22) **Business Phone Number:** Enter the manager's business phone number of the prime contractor/consultant.
- (23) **Date:** Provide the date this form was prepared.
- (24) **Copy Distribution:** The prime contractor/consultant will need to maintain a copy with the contract file (electronic and/or paper). The prime contractor/consultant will need to e-mail this form as provided in the Section II. Policy, paragraphs A as stated above. Local agency will need to keep a copy with the contract file.

**EXHIBIT 17-F FINAL REPORT – UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE) AND FIRST TIER SUBCONTRACTORS - MBE**

1. Local Agency Contract Number		2. Federal-Aid Project Number		3. Local Agency			4. Contract Completion Date	
5. Contractor/Consultant			6. Business Address			7. Final Contract Amount		
8. Contract Item Number	9. Description of Work, Service, or Materials Supplied	10. Company Name and Business Address	11. DBE Certification Number	12. Contract Payments		13. Date Work Completed	14. Date of Final Payment	
				Non-DBE	DBE/MBE			
15. ORIGINAL DBE COMMITMENT AMOUNT \$ _____				16. TOTAL				

List all first-tier subcontractors/subconsultants and DBEs regardless of tier whether or not the firms were originally listed for goal credit. If actual DBE utilization (or item of work) was different than that approved at the time of award, provide comments on an additional page. List actual amount paid to each entity. If no subcontractors/subconsultants were used on the contract, indicate on the form.

<b>I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT</b>			
17. Contractor/Consultant Representative's Signature	18. Contractor/Consultant Representative's Name	19. Phone	20. Date
<b>I CERTIFY THAT THE CONTRACTING RECORDS AND ON-SITE PERFORMANCE OF THE DBE(S) HAS BEEN MONITORED</b>			
21. Local Agency Representative's Signature	22. Local Agency Representative's Name	23. Phone	24. Date

DISTRIBUTION: Original – Local Agency, Copy – Caltrans District Local Assistance Engineer. Include with Final Report of Expenditures

**ADA NOTICE:** For individuals with sensory disabilities, this document is available in alternate formats. For information, call (916) 445-1233, Local Assistance Procedures Manual TTY 711, or write to Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

**EXHIBIT 17-F FINAL REPORT – UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE) AND FIRST TIER SUBCONTRACTORS - WBE**

1. Local Agency Contract Number		2. Federal-Aid Project Number		3. Local Agency			4. Contract Completion Date	
5. Contractor/Consultant			6. Business Address			7. Final Contract Amount		
8. Contract Item Number	9. Description of Work, Service, or Materials Supplied	10. Company Name and Business Address	11. DBE Certification Number	12. Contract Payments		13. Date Work Completed	14. Date of Final Payment	
				Non-DBE	DBE <b>WBE</b>			
15. ORIGINAL DBE COMMITMENT AMOUNT <b>WBE</b> \$ _____				16. TOTAL				

List all first-tier subcontractors/subconsultants and DBEs regardless of tier whether or not the firms were originally listed for goal credit. If actual DBE utilization (or item of work) was different than that approved at the time of award, provide comments on an additional page. List actual amount paid to each entity. If no subcontractors/subconsultants were used on the contract, indicate on the form.

<b>I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT</b>			
17. Contractor/Consultant Representative's Signature	18. Contractor/Consultant Representative's Name	19. Phone	20. Date
<b>I CERTIFY THAT THE CONTRACTING RECORDS AND ON-SITE PERFORMANCE OF THE DBE(S) HAS BEEN MONITORED</b>			
21. Local Agency Representative's Signature	22. Local Agency Representative's Name	23. Phone	24. Date

DISTRIBUTION: Original – Local Agency, Copy – Caltrans District Local Assistance Engineer. Include with Final Report of Expenditures

**ADA NOTICE:** For individuals with sensory disabilities, this document is available in alternate formats. For information, call (916) 445-1233, Local Assistance Procedures Manual TTY 711, or write to Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

## EXHIBIT 17-F INSTRUCTIONS

### INSTRUCTIONS – FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE) AND FIRST-TIER SUBCONTRACTORS

- 1. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 2. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 3. Local Agency** - Enter the name of the local or regional agency that is funding the contract.
- 4. Contract Completion Date** - Enter the date the contract was completed.
- 5. Contractor/Consultant** - Enter the contractor/consultant's firm name.
- 6. Business Address** - Enter the contractor/consultant's business address.
- 7. Final Contract Amount** - Enter the total final amount for the contract.
- 8. Contract Item Number** - Enter contract item for work, services, or materials supplied provided. Not applicable for consultant contracts.
- 9. Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials provided. Indicate all work to be performed by DBEs including work performed by the prime contractor/consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
- 10. Company Name and Business Address** - Enter the name, address, and phone number of all subcontracted contractors/consultants. Also, enter the prime contractor/consultant's name and phone number, if the prime is a DBE.
- 11. DBE Certification Number** - Enter the DBE's Certification Identification Number. Leave blank if subcontractor is not a DBE.
- 12. Contract Payments** - Enter the subcontracted dollar amount of the work performed or service provided. Include the prime contractor/consultant if the prime is a DBE. The Non-DBE column is used to enter the dollar value of work performed by firms that are not certified DBE or for work after a DBE becomes decertified.
- 13. Date Work Completed** - Enter the date the subcontractor/subconsultant's item work was completed.
- 14. Date of Final Payment** - Enter the date when the prime contractor/consultant made the final payment to the subcontractor/subconsultant for the portion of work listed as being completed.
- 15. Original DBE Commitment Amount** - Enter the "Total Claimed DBE Participation Dollars" from Exhibits 15-G or 10-O2 for the contract.
- 16. Total** - Enter the sum of the "Contract Payments" Non-DBE and DBE columns.
- 17. Contractor/Consultant Representative's Signature** - The person completing the form on behalf of the contractor/consultant's firm must sign their name.
- 18. Contractor/Consultant Representative's Name** - Enter the name of the person preparing and signing the form.
- 19. Phone** - Enter the area code and telephone number of the person signing the form.
- 20. Date** - Enter the date the form is signed by the contractor's preparer.
- 21. Local Agency Representative's Signature** - A Local Agency Representative must sign their name to certify that the contracting records and on-site performance of the DBE(s) has been monitored.
- 22. Local Agency Representative's Name** - Enter the name of the Local Agency Representative signing the form.
- 23. Phone** - Enter the area code and telephone number of the person signing the form.
- 24. Date** - Enter the date the form is signed by the Local Agency Representative.



## INSTRUCTIONS - DBE CERTIFICATION STATUS CHANGE

### INSTRUCTIONS –DISADVANTAGED BUSINESS ENTERPRISES (DBE) CERTIFICATION STATUS CHANGE

- 1. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 2. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 3. Local Agency** - Enter the name of the local or regional agency that is funding the contract.
- 4. Contract Completion Date** - Enter the date the contract was completed.
- 5. Contractor/Consultant** - Enter the contractor/consultant's firm name.
- 6. Business Address** - Enter the contractor/consultant's business address.
- 7. Final Contract Amount** - Enter the total final amount for the contract.
- 8. Contract Item Number** - Enter contract item for work, services, or materials supplied provided. Not applicable for consultant contracts.
- 9. DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted contractors/consultants.
- 10. DBE Certification Number** - Enter the DBE's Certification Identification Number.
- 11. Amount Paid While Certified** - Enter the actual dollar value of the work performed by those subcontractors/subconsultants during the time period they are certified as a DBE.
- 12. Certification/Decertification Date (Letter Attached)** - Enter either the date of the Decertification Letter sent out by the Office of Business and Economic Opportunity (OBE) or the date of the Certification Certificate mailed out by OBE.
- 13. Comments** - If needed, provide any additional information in this section regarding any of the above certification status changes.
- 14. Contractor/Consultant Representative's Signature** - The person completing the form on behalf of the contractor/consultant's firm must sign their name.
- 15. Contractor/Consultant Representative's Name** - Enter the name of the person preparing and signing the form.
- 16. Phone** - Enter the area code and telephone number of the person signing the form.
- 17. Date** - Enter the date the form is signed by the contractor's preparer.
- 18. Local Agency Representative's Signature** - A Local Agency Representative must sign their name to certify that the contracting records and on-site performance of the DBE(s) has been monitored.
- 19. Local Agency Representative's Name** - Enter the name of the Local Agency Representative signing the form.
- 20. Phone** - Enter the area code and telephone number of the person signing the form.
- 21. Date** - Enter the date the form is signed by the Local Agency Representative.

## FEMALE AND MINORITY GOALS

To comply with Section II, "Nondiscrimination," of "Required Contract Provisions Federal-Aid Construction Contracts," the following are for female and minority utilization goals for Federal-aid construction contracts and subcontracts that exceed \$10,000:

The nationwide goal for female utilization is 6.9 percent.

The goals for minority utilization [45 Fed Reg 65984 (10/3/1980)] are as follows:

### MINORITY UTILIZATION GOALS

Economic Area	Goal (%)
174 Redding CA: Non-SMSA Counties: CA Lassen; CA Modoc; CA Plumas; CA Shasta; CA Siskiyou; CA Tehama	6.8
175 Eureka, CA Non-SMSA Counties: CA Del Norte; CA Humboldt; CA Trinity	6.6
176 San Francisco-Oakland-San Jose, CA: SMSA Counties: 7120 Salinas-Seaside-Monterey, CA CA Monterey 7360 San Francisco-Oakland CA Alameda; CA Contra Costa; CA Marin; CA San Francisco; CA San Mateo 7400 San Jose, CA CA Santa Clara, CA 7485 Santa Cruz, CA CA Santa Cruz 7500 Santa Rosa CA Sonoma 8720 Vallejo-Fairfield-Napa, CA CA Napa; CA Solano Non-SMSA Counties: CA Lake; CA Mendocino; CA San Benito	28.9  25.6  19.6 14.9 9.1 17.1 23.2
177 Sacramento, CA: SMSA Counties: 6920 Sacramento, CA CA Placer; CA Sacramento; CA Yolo Non-SMSA Counties CA Butte; CA Colusa; CA El Dorado; CA Glenn; CA Nevada; CA Sierra; CA Sutter; CA Yuba	16.1 14.3



178	Stockton-Modesto, CA: SMSA Counties: 5170 Modesto, CA CA Stanislaus 8120 Stockton, CA CA San Joaquin Non-SMSA Counties CA Alpine; CA Amador; CA Calaveras; CA Mariposa; CA Merced; CA Tuolumne	12.3 24.3 19.8
179	Fresno-Bakersfield, CA SMSA Counties: 0680 Bakersfield, CA CA Kern 2840 Fresno, CA CA Fresno Non-SMSA Counties: CA Kings; CA Madera; CA Tulare	19.1 26.1 23.6
180	Los Angeles, CA: SMSA Counties: 0360 Anaheim-Santa Ana-Garden Grove, CA CA Orange 4480 Los Angeles-Long Beach, CA CA Los Angeles 6000 Oxnard-Simi Valley-Ventura, CA CA Ventura 6780 Riverside-San Bernardino-Ontario, CA CA Riverside; CA San Bernardino 7480 Santa Barbara-Santa Maria-Lompoc, CA CA Santa Barbara Non-SMSA Counties CA Inyo; CA Mono; CA San Luis Obispo	11.9 28.3 21.5 19.0 19.7 24.6
181	San Diego, CA: SMSA Counties 7320 San Diego, CA CA San Diego Non-SMSA Counties CA Imperial	16.9 18.2

For the last full week of July during which work is performed under the contract, the prime contractor and each non-material-supplier subcontractor with a subcontract of \$10,000 or more must complete Form FHWA PR-1391 (Appendix C to 23 CFR 230). Submit the forms by August 15.

## TITLE VI ASSURANCES

### APPENDIX A

During the performance of this Agreement, the contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as CONTRACTOR) agrees as follows:

1. Compliance with Regulations: CONTRACTOR shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.

2. Nondiscrimination: CONTRACTOR, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONTRACTOR shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.

**Environmental Protection Agency required nondiscrimination clause:**

The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.

3. Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by CONTRACTOR for work to be performed under a Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by CONTRACTOR of the CONTRACTOR'S obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4. Information and Reports: CONTRACTOR shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the recipient or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information, CONTRACTOR shall so certify to the recipient or FHWA as appropriate, and shall set forth what efforts CONTRACTOR has made to obtain the information.

5. Sanctions for Noncompliance: In the event of CONTRACTOR'S noncompliance with the nondiscrimination provisions of this agreement, the recipient shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

- i. withholding of payments to CONTRACTOR under the Agreement within a reasonable period of time, not to exceed 90 days; and/or
- ii. cancellation, termination or suspension of the Agreement, in whole or in part.

6. Incorporation of Provisions: CONTRACTOR shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

CONTRACTOR shall take such action with respect to any sub-agreement or procurement as the recipient or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event CONTRACTOR becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, CONTRACTOR may request the recipient enter into such litigation to protect the interests of the State, and, in addition, CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

## APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities, including, but not limited to:

### Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex;
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).
- 40 C.F.R. Part 7

## **Equal Opportunity Provisions for Federally Assisted Construction Contracts - 41 CFR 60-1.4(b)**

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

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

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

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

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

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

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

*Provided*, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

## **CARB NONDISCRIMINATION CLAUSES**

During the performance this work the Contractor and Subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Subrecipient and its contractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Subrecipient and its contractors shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractors and Subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining agreement or other agreement.

## **FEDERAL TRAINEE PROGRAM**

For the Federal training program, the number of trainees or apprentices is\_\_\_\_\_.

This section applies if a number of trainees or apprentices is specified in the Special Provisions.

As part of the prime contractor's equal opportunity affirmative action program, provide on-the-job training to develop full journeymen in the types of trades or job classifications involved.

The prime contractor has primary responsibility for meeting this training requirement.

If the prime contractor subcontracts a contract part, they shall determine how many trainees or apprentices are to be trained by the subcontractor.

Include these training requirements in each subcontract.

Where feasible, 25 percent of apprentices or trainees in each occupation must be in their 1st year of apprenticeship or training.

Distribute the number of apprentices or trainees among the work classifications on the basis of the prime contractor's needs and the availability of journeymen in the various classifications within a reasonable recruitment area

Before starting work, the prime contractor shall submit to the County of Nevada:

1. Number of apprentices or trainees to be trained for each classification
2. Training program to be used
3. Training starting date for each classification

The prime contractor shall obtain the County of Nevada's approval for this submitted information before the prime contractor starts work. The County of Nevada credits the prime contractor for each apprentice or trainee the prime contractor employs on the job who is currently enrolled or becomes enrolled in an approved program.

The primary objective of this section is to train and upgrade minorities and women toward journeymen status. The prime contractor shall make every effort to enroll minority and women apprentices or trainees, such as conducting systematic and direct recruitment through public and private sources likely to yield minority and women apprentices or trainees, to the extent they are available within a reasonable recruitment area and show that they have made the efforts. In making these efforts, the prime contractor shall not discriminate against any applicant for training.

The prime contractor shall not employ as an apprentice or trainee an employee:

1. In any classification in which the employee has successfully completed a training course leading to journeyman status or in which the employee has been employed as a journeyman

2. Who is not registered in a program approved by the US Department of Labor, Bureau of Apprenticeship and Training

The prime contractor shall ask the employee if the employee has successfully completed a training course leading to journeyman status or has been employed as a journeyman. The prime contractor's records must show the employee's answers to the questions.

In the training program, the prime contractor shall establish the minimum length and training type for each classification. The County of Nevada and FHWA approves a program if one of the following is met:

1. It is calculated to:
  - Meet your equal employment opportunity responsibilities
  - Qualify the average apprentice or trainee for journeyman status in the classification involved by the end of the training period
2. It is registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training, and it is administered in a way consistent with the equal employment responsibilities of Federal-aid highway construction contracts

The prime contractor shall obtain the State's approval for their training program before they start work involving the classification covered by the program.

The prime contractor shall provide training in the construction crafts, not in clerk-typist or secretarial-type positions. Training is allowed in lower-level management positions such as office engineers, estimators, and timekeepers if the training is oriented toward construction applications. Training is allowed in the laborer classification if significant and meaningful training is provided and approved by the division office. Off-site training is allowed if the training is an integral part of an approved training program and does not make up a significant part of the overall training.

The County of Nevada reimburses the prime contractor 80 cents per hour of training given an employee on this contract under an approved training program:

1. For on-site training
2. For off-site training if the apprentice or trainee is currently employed on a Federal-aid project and prime contractor does at least one of the following:
  - Contribute to the cost of the training
  - Provide the instruction to the apprentice or trainee
  - Pay the apprentice's or trainee's wages during the off-site training period
3. If the prime contractor complies with this section.

Each apprentice or trainee must:

1. Begin training on the project as soon as feasible after the start of work involving the apprentice's or trainee's skill
2. Remain on the project as long as training opportunities exist in the apprentice's or trainee's work classification or until the apprentice or trainee has completed the training program

The prime contractor shall furnish the apprentice or trainee with a copy of the program that the prime contractor will comply with in providing the training



## **PROHIBITION OF CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE EQUIPMENT AND SERVICES**

In response to significant national security concerns, the agency shall check the prohibited vendor list before making any telecommunications and video surveillance purchase because recipients and subrecipients of federal funds are prohibited from obligating or expending loan or grant funds to:

- Procure or obtain;
- Extend or renew a contract to procure or obtain; or
- Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

The prohibited vendors (and their subsidiaries or affiliates) are:

- Huawei Technologies Company;
- ZTE Corporation;
- Hytera Communications Corporation;
- Hangzhou Hikvision Digital Technology Company;
- Dahua Technology Company; and
- Subsidiaries or affiliates of the above-mentioned companies.

In implementing the prohibition, the agency administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

The contractors should furnish telecommunications and video surveillance equipment with a certificate of compliance. The certificate must state telecommunications and video surveillance equipment was not procured or obtained from manufacturers identified in the above list.

## **FEDERAL WAGE RATES**

The current prevailing wage determination issued by the Department of Labor is attached (Attachment 4).

Attention is directed to the Federal minimum wage rate requirements in the Bid Book. If there is a difference between the minimum wage rates predetermined by the Secretary of Labor and the general prevailing wage rates determined by the Director of the California Department of Industrial Relations for similar classifications of labor, the Contractor and subcontractors shall pay not less than the higher wage rate. The Department will not accept lower State wage rates not specifically included in the Federal minimum wage determinations. This includes "helper" (or other classifications based on hours of experience) or any other classification not appearing in the Federal wage determinations. Where Federal wage determinations do not contain the State wage rate determination otherwise available for use by the Contractor and subcontractors, the Contractor and subcontractors shall pay not less than the Federal minimum wage rate which most closely approximates the duties of the employees in question.

**COUNTY SPECIAL PROVISIONS**

COUNTY OF NEVADA  
STATE OF CALIFORNIA

**SPECIAL PROVISIONS**

For

**Electric Bus Charging Project  
Nevada County Operations Center (NCOC) Phase-1**

**COUNTY PROJECT NO. 889830**

**California Air Resources Board (CARB) Grant No. G20-NS-001**

**A sub-grant of U.S. Environmental Protection Agency 2019 and 2020 Targeted  
Air Shed Grant Program #TA98T15301-0 with CARB**

The work embraced herein shall be done in accordance with the Project Plans, the Standard Plans and Standard Specifications dated 2018 of the California Department of Transportation, the Nevada County Road Standards and Nevada County Standard Road Drawings, and these Special Provisions.

Some sections of the Caltrans Standard Specifications are superseded by these County Special Provisions. While the County Special Provisions may appear to be similar to the Caltrans 2018 Standard Specifications in some respects, they are not the same. Bidders and Contractors are advised to read these County Special Provisions carefully, and to not assume that provisions that are similar to Caltrans provisions are actually the same. It is the responsibility of all Bidders to read and understand the County Special Provisions before submitting a Bid.

**DIVISION I GENERAL PROVISIONS**

**SECTION 1 GENERAL**

Conform to Section 1, "General" of the Standard Specifications, and these Special Provisions.

The work embraced herein shall be done in accordance with the State of California Standard Specifications, Revised Standard Specifications, Standard Plans and Revised Standard Plans,

dated 2018, consistent with the County Standard Form Contract and in accordance with the following Special Provisions.

Wherever these Provisions require conforming to the Standard Specifications it must be interpreted to be conforming to the Standard Specifications and Revised Standard Specifications. Conforming to the Standard Specifications and Revised Standard Specifications is required unless specifically excluded or revised.

In case of conflict between the Standard Specifications or Standard Plans and these Special Provisions, the Special Provisions shall take precedence over and be used in lieu of such conflicting portions.

Wherever in the Standard Specifications, Special Provisions, Invitation to Bid, Instructions to Bidders, Bid Form, Contract, or other Contract documents the following terms are used, the intent and meaning shall be interpreted as follows:

STATE OR COUNTY OR STATE OF CALIFORNIA	County of Nevada
DEPARTMENT OR DEPARTMENT OF PUBLIC WORKS	County of Nevada Department of Public Works
DIRECTOR OR DIRECTOR OF PUBLIC WORKS	Board of Supervisors County of Nevada
ENGINEER OR CHIEF ENGINEER	Director of the Department of Public Works County of Nevada acting either directly or through properly authorized agent and consultants
NOTICE TO BIDDERS NOTICE TO CONTRACTORS	INVITATION TO BID
REVISED STANDARD SPECIFICATIONS	New or revised standard specifications. These specifications are available at the following website: <a href="https://dot.ca.gov/programs/design/ccs-standard-plans-and-standard-specifications">https://dot.ca.gov/programs/design/ccs-standard-plans-and-standard-specifications</a> and as stated in Section 2-1.06B of the Standard Specifications.

## **SECTION 2 BIDDING**

Conform to Section 2, "Bidding", of the Standard Specifications, and these Special Provisions.

The Bidder's attention is directed to the bidding documents preceding these Special Provisions, and the Standard Form Contract following these Special Provisions.

### **2-1.01 GENERAL**

Bidding shall conform to Section 2, "Bidding", of the Standard Specifications, and these Special Provisions.

The bidder's bond shall conform to the bond form in the Bid Book for the project and shall be properly filled out and executed. The bidder's bond form included in that book may be used.

In conformance with Public Contract Code Section 7106, a Non-collusion Affidavit is included in the Bid Book. Signing the Bid Book shall also constitute signature of the Non-collusion Affidavit.

The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of Title 49 CFR (Code of Federal Regulations) part 26 in the award and administration of US DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate. Each subcontract signed by the bidder must include this assurance.

### **FEDERAL LOBBYING RESTRICTIONS**

Section 1352, Title 31, United States Code prohibits Federal funds from being expended by the recipient or any lower tier sub recipient of a Federal-aid contract to pay for any person for influencing or attempting to influence a Federal agency or Congress in connection with the awarding of any Federal-aid contract, the making of any Federal grant or loan, or the entering into of any cooperative agreement.

If any funds other than Federal funds have been paid for the same purposes in connection with this Federal-aid contract, the recipient shall submit an executed certification and, if required, submit a completed disclosure form as part of the bid documents.

A certification for Federal-aid contracts regarding payment of funds to lobby Congress or a Federal agency is included in the Bid Book. Standard Form - LLL, "Disclosure of Lobbying Activities", instructions for completion of the Standard Form are also included in the Bid Book. Signing the Bid Book shall constitute signature of the Certification.

The above referenced certification and disclosure of lobbying activities shall be included in each subcontract and any lower-tier contracts exceeding \$100,000. All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the Engineer.

The Contractor, subcontractors and any lower-tier contractors shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by the Contractor, subcontractors and any lower-tier contractors. An event that materially affects the accuracy of the information reported includes:

- (1) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
- (2) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or
- (3) A change in the officer(s), employees(s), or Member(s) contacted to influence or attempt to influence a covered Federal Action.

### **2-1.12 DISADVANTAGED BUSINESS ENTERPRISES (DBE)**

The contractor shall take necessary and reasonable steps to ensure that DBEs (in this case MBEs and WBEs) have opportunity to participate in the contract (49 CFR 26 and 40 CFR 33.301).

Although this project is funded by an EPA Assistance Agreement, for tracking of DBE utilization, the Caltrans DBE approach and forms (modified) shall be used.

The MBE contract goal is **2 percent**

The WBE contract goal is **1 percent**

The prime contractor shall make work available to DBEs and select work parts consistent with available DBE subcontractors and suppliers.

The prime contractor shall meet the DBE goals shown in these Special Provisions or demonstrate that they made adequate good faith efforts to meet these goals in accordance with 40 CFR 33.301. Contractor shall document methods used to adhere to good faith efforts in accordance with 40 CFR

33.501(a). Contractor's failure to produce proper documentation may result in remedial action as described in 40 CFR 33.105.

Examples of proper documentation include, but are not limited to, email logs, phone logs, electronic searches and communication, handouts at conferences, flyers sent to DBEs or similar records. In addition, if one or more of the good faith efforts cannot be performed, EPA recommends that the circumstances that have precluded the efforts be documented and retained in the recipient's records.

### **MBE and WBE Certification**

With their bid the Contractor is required to submit Exhibit 15-G: Construction Contract DBE Commitment forms for both MBE and WBE (modified) and/or documentation of Good Faith Efforts including Exhibit 15-H: DBE Proposer/Contractor Good Faith Efforts for both MBE and DBE (modified). Additionally, entities must meet the MBE/WBE Certification Criteria under Public Law 102-389, 42 U.S.C. 4370d, Title X of the Clean Air Act Amendments of 1990, and 42 U.S.C. 7601 note. Entities not covered by one of the two statute presumptions for socially and economically disadvantaged must meet the criteria listed in 40 CFR §33.202 and/or 40 CFR §33.203 to qualify for EPA's DBE Program. More guidance for EPA DBE Program requirements are available at <https://www.epa.gov/grants/disadvantaged-business-enterprise-program-requirements#mbewbecert>.

It is the Contractor's responsibility to verify that at date of bid opening the MBE/WBE firm is appropriately certified. Although the EPA has suspended its MBE/WBE certification program, MBE/WBE certification programs exist in California and are acceptable alternatives. Caltrans certifications for SDBE/SWBE are acceptable, as well as the WBE certifications issued by the Women's Business Enterprise Council-West (<http://www.wbec-west.org/>) or both the MBE and WBE certifications issued by the California Public Utilities Commission through the Supplier Clearinghouse ([www.thesupplierclearinghouse.com](http://www.thesupplierclearinghouse.com)). Contractor shall maintain documentation verifying MBE/WBE certifications from appropriate certifying agencies in support of the Certification Numbers used on DBE forms and documentation submitted to the County and shall be prepared to provide this documentation to County upon request.

Credit for materials or supplies the prime contractor purchases from DBEs counts towards the goal in the following manner:

- 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
- 60 percent counts if the materials or supplies are obtained from a DBE regular dealer.
- Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count if obtained from a DBE that is neither a manufacturer nor regular dealer. 49 CFR 26.55 defines "manufacturer" and "regular dealer".

The prime contractor receives credit towards the goal if they employ a DBE trucking company that performs a commercially useful function as defined in 49 CFR 26.55(d)(l) as follows:

- The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.
- The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
- The DBE receives credit for the total value of the transportation services it provides on the Contract using trucks it owns, insures, and operates using drivers it employs.
- The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Contract.
- The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE that leases trucks equipped with drivers from a non-DBE is entitled to credit for the total

value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services on the contract provided by DBE-owned trucks or leased trucks with DBE employee drivers. Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement.

- The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.
- A lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

***a. Nondiscrimination Statement***

The contractor, subrecipient or subcontractor will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In administering the Local Agency components of the DBE Program Plan, the contractor, subrecipient or subcontractor will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

***b. Contract Assurance***

Under 49 CFR 26.13(b): The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR 26 in the award and administration of federal-aid contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

***c. Prompt Progress Payment***

The prime contractor or subcontractor shall pay to any subcontractor, not later than seven days after receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed the contractor on account of the work performed by the subcontractors, to the extent of each subcontractor's interest therein. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from the prime contractor or subcontractor to a subcontractor, the prime contractor or subcontractor may withhold no more than 150 percent of the disputed amount. Any violation of this requirement shall constitute a cause for disciplinary action and shall subject the licensee to a penalty, payable to the subcontractor, of 2 percent of the amount due per month for every month that payment is not made. In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to his or her attorney's fees and costs. The sanctions authorized under this requirement shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal. This clause applies to both DBE and non-DBE subcontractors.



***d. Prompt Payment of Withheld Funds to Subcontractors***

The Agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the Agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within seven (7) days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the Agency. Any delay or postponement of payment may take place only for good cause and with the Agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code and Section 10262 of the California Public Contract Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

Any violation of these provisions of Prompt Progress Payment and Prompt Payment of Withheld Funds to Subcontractors shall subject the violating prime contractor or subcontractor to the penalties, sanctions and other remedies specified therein. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor.

***e. Termination and Substitution of DBE Subcontractors***

The prime contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains the Agency's written consent. The prime contractor shall not terminate or substitute a listed DBE for convenience and perform the work with their own forces or obtain materials from other sources without prior written authorization from the Agency. Unless the Agency's prior written consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE on the Exhibit 15-G Construction Contract DBE Commitment form (modified), included in the Bid.

The Agency authorizes a request to use other forces or sources of materials if the bidder shows any of the following justifications:

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.
2. The Local Agency stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet the Local Agency's bond requirements.
3. Work requires a contractor's license and listed DBE does not have a valid license under Contractors License Law.
4. Listed DBE fails or refuses to perform the work or furnish the listed materials (failing or refusing to perform is not an allowable reason to remove a DBE if the failure or refusal is a result of bad faith or discrimination).
5. Listed DBE's work is unsatisfactory and not in compliance with the contract.
6. Listed DBE is ineligible to work on the project because of suspension or debarment.
7. Listed DBE becomes bankrupt or insolvent.
8. Listed DBE voluntarily withdraws with written notice from the Contract
9. Listed DBE is ineligible to receive credit for the type of work required.

10. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the Contract.

11. The Agency determines other documented good cause.

The prime contractor shall notify the original DBE of the intent to use other forces or material sources and provide the reasons, allowing the DBE 5 days to respond to the notice and advise the prime contractor and the Agency of the reasons why the use of other forces or sources of materials should not occur.

The prime contractor's request to use other forces or material sources must include:

1. One or more of the reasons listed in the preceding paragraph.
2. Notices from the prime contractor to the DBE regarding the request.
3. Notices from the DBEs to the prime contractor regarding the request.

If the Agency authorizes the termination or substitution of a listed DBE, the prime contractor must make good faith efforts in accordance with 40 CFR 33.301 to find another DBE to substitute for the original DBE. The substitute DBE must (1) perform at least the same amount of work as the original DBE under the contract to the extent needed to meet or exceed the DBE goal, and (2) be certified as a DBE (MBE/WBE). The prime contractor shall submit their documentation of good faith efforts within 7 days of their request for authorization of the substitution. The Agency may authorize a 7-day extension of this submittal period at the prime contractor's request. More guidance can be found at 49 CFR 26 app A regarding evaluation of good faith efforts to meet the DBE goal.

***f. Commitment and Utilization***

The bidder shall submit the Exhibit 15-G Construction Contract DBE Commitment (modified), included in the Bid book for both MBE and WBE. This exhibit is the bidder's DBE commitment form. If the form is not submitted with the bid, the bidder must remove the form from the Bid book before submitting their bid.

The bidder shall complete and sign both Exhibit 15-G Construction Contract DBE Commitments (modified) included in the contract documents regardless of whether DBE participation is reported. The bidder shall provide written confirmation from each DBE that the DBE is participating in the Contract. A copy of a DBE's quote serves as written confirmation. If a DBE is participating as a joint venture partner, the bidder shall submit a copy of the joint venture agreement.

If the DBE Commitment forms, Exhibit 15-G (modified), are not submitted with the bid, they must be completed and submitted by all bidders to the Agency within five (5) days of bid opening. If the bidder does not submit the DBE Commitment form within the specified time, the Agency will find the bidder's bid nonresponsive.

The prime contractor shall use each DBE subcontractor as listed on Exhibit 12-B Bidder's List of Subcontractors (DBE and Non-DBE), and Exhibit 15-G Construction Contract DBE Commitment (modified) form unless they receive authorization for a substitution.

The Agency shall request the prime contractor to:

1. Notify the Resident Engineer or Inspector of any changes to its anticipated DBE participation
2. Provide this notification before starting the affected work
3. Maintain records including:
  - Name and business address of each 1st-tier subcontractor
  - Name and business address of each DBE subcontractor, DBE vendor, and DBE trucking company, regardless of tier
  - Date of payment and total amount paid to each business (see Exhibit 9-F Monthly Disadvantaged Business Enterprise (DBE) Running Tally of Payments (modified))

If the prime contractor is an MBE/WBE contractor, they shall include the date of work performed by their own forces and the corresponding value of the work.

Before the 15th of each month, the prime contractor shall submit a Monthly DBE Trucking Verification (LAPM Exhibit 16-Z1) form if applicable.

If a DBE is decertified before completing its work, the DBE must notify the prime contractor in writing of the decertification date. If a business becomes a certified DBE before completing its work, the business must notify the prime contractor in writing of the certification date. The prime contractor shall submit the notifications. Upon work completion, the prime contractor shall complete a Disadvantaged Business Enterprises (DBE) Certification Status Change, Exhibit 17-O, form and submit the form within 30 days of contract acceptance.

Upon work completion, the prime contractor shall complete Exhibit 17-F Final Report – Utilization of Disadvantaged Business Enterprises (DBE)(modified) for MBE and WBE, First-Tier Subcontractors and submit it within 90 days of contract acceptance. The Agency will withhold \$10,000 until the form is submitted. The Agency releases the withhold upon submission of the completed form.

***g. DBE Running Tally of Payments***

After submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month, the prime contractor/consultant shall complete and email the Exhibit 9- F: Disadvantaged Business Enterprise Running Tally of Payments (modified) for both MBE and WBE to the County.

***h. Good Faith Efforts Submittal***

**Exhibit 15-H: Proposer/Contractor Good Faith Efforts (modified)** is due to the local agency within five (5) days of bid opening. Days means calendar days. In computing any period of time described in this part, the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday, or federal holiday, the period extends to the next day that is not a Saturday, Sunday, or federal holiday. Similarly, in circumstances where the recipient's offices are closed for all or part of the last day, the period extends to the next on which the agency is open. Only good faith efforts directed towards obtaining participation and meeting or exceeding the DBE contract goal will be considered.

Submittal of good faith efforts documentation within the specified time protects your eligibility for award of the contract in the event the Agency finds that the DBE goal has not been met.

Good faith efforts documentation must include the following information and supporting documents, as necessary:

1. Items of work you have made available to DBE firms. Identify those items of work you might otherwise perform with your own forces and those items that have been broken down into economically feasible units to facilitate DBE participation. For each item listed, show the dollar value and percentage of the total contract. It is your responsibility to demonstrate that sufficient work to meet the goal was made available to DBE firms.
2. Names of certified DBEs and dates on which they were solicited to bid on the project. Include the items of work offered. Describe the methods used for following up initial solicitations to determine with certainty if the DBEs were interested, and the dates of the follow-up. Attach supporting documents such as copies of letters, memos, facsimiles sent, telephone logs, telephone billing statements, and other evidence of solicitation. You are reminded to solicit certified DBEs through all reasonable and available means and provide sufficient time to allow DBEs to respond.

3. Name of selected firm and its status as a DBE for each item of work made available. Include name, address, and telephone number of each DBE that provided a quote and their price quote. If the firm selected for the item is not a DBE, provide the reasons for the selection.
4. Name and date of each publication in which you requested DBE participation for the project. Attach copies of the published advertisements.
5. Names of agencies and dates on which they were contacted to provide assistance in contacting, recruiting, and using DBE firms. If the agencies were contacted in writing, provide copies of supporting documents.
6. List of efforts made to provide interested DBEs with adequate information about the plans, specifications, and requirements of the contract to assist them in responding to a solicitation. If you have provided information, identify the name of the DBE assisted, the nature of the information provided, and date of contact. Provide copies of supporting documents, as appropriate.
7. List of efforts made to assist interested DBEs in obtaining bonding, lines of credit, insurance, necessary equipment, supplies, and materials, excluding supplies and equipment that the DBE subcontractor purchases or leases from the prime contractor or its affiliate. If such assistance is provided by you, identify the name of the DBE assisted, nature of the assistance offered, and date assistance was provided. Provide copies of supporting documents, as appropriate.
8. Any additional data to support demonstration of good faith efforts.
9. The Agency may consider DBE commitments from other bidders when determining whether the low bidder made good faith efforts to meet or exceed the DBE goal

#### **2-1.43 BID OPENING**

The Agency publicly opens and reads bids at the time and place shown on the **Invitation to Bid**.

#### **2-1.50 BID RIGGING**

The U.S. Department of Transportation (DOT) provides a toll-free hotline to report bid rigging activities. Use the hotline to report bid rigging, bidder collusion, and other fraudulent activities. The hotline number is (800) 424-9071. The service is available 24 hours 7 days a week and is confidential and anonymous. The hotline is part of the DOT's effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the DOT Inspector General.

### **SECTION 2-2 BID ITEM DESCRIPTIONS**

In addition to conforming to the sections listed for each bid item below, all work shall conform to the following:

- Section 1, "General"
- Section 2, "Bidding"
- Section 3, "Contract Award and Execution"
- Section 4, "Scope of Work"
- Section 5, "Control of Work"
- Section 6-1, "Control of Materials – General"
- Section 6-2, "Control of Materials – Quality Assurance"
- Section 7, "Legal Relations and Responsibility to the Public"
- Section 8, "Prosecution and Progress"
- Section 9, "Payment"
- Division X, "Electrical Work"

Bid Items without measurement and payment procedures in this Section shall be understood to conform to the applicable measurement and payment procedures in their referenced Sections.

### **2-2.01 BID ITEM 1**

#### **Water Pollution Control Program**

Conform to:

Special Provisions: Section 13, "Water Pollution Control"

### **2-2.02 BID ITEM 2**

#### **Traffic Control**

Conform to:

Special Provisions: Section 12, "Temporary Traffic Control"

### **2-2.03 BID ITEM 3**

#### **Pothole Utilities**

The existing utility locations shown on the Civil Plans are approximate to the best of County's ability to locate them, but actual locations may vary considerably from those shown. County does not assume responsibility for the existence or location of any utilities; the Contractor is responsible for accurately locating utilities. The Contractor shall pothole as necessary to locate all existing utilities as required in order to complete the project.

After completion of potholing, the contractor shall reinstate the disturbed area in accordance with Detail 2/C502.

Conform to:

Standard Specifications Section 15, "Existing Facilities"

Special Provisions: Section 10-5, "Dust Control"  
Section 12, "Temporary Traffic Control"  
Section 13, "Water Pollution Control"  
Section 14, "Environmental Stewardship"  
Section 19, "Earthwork"  
Section 20, "Landscape"  
Section 26, "Aggregate Bases"  
Section 39, "Asphalt Concrete"  
Section 77-1, "Trenching and Backfilling"

#### **Bid Item 3 Payment**

It is the Contractor's responsibility to provide potholing as needed to accomplish all work required to complete the project while avoiding damage to existing utilities. The Contractor shall make their own assessment of the potholing requirements and allow for all work necessary in the bid price.

As this work is on County property and the existing utilities are "Behind the Meter", using the "Call 811 Before You Dig"/"USA North 811" service is not likely to produce information or markings for locations of the existing utilities on this site. It is the Contractor's responsibility to complete the work while preventing damage to existing utilities without reliance on information or marking from these services. If existing utilities are damaged by the Contractor the Contractor shall restore the utilities to their original condition at no cost to County.

Lump sum Bid Item 3, "Pothole Utilities" includes full compensation for furnishing all labor, materials, tools, equipment and incidentals for doing all the work involved in potholing utilities and restoring disturbed areas to existing conditions as described above, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer including but not

limited to sawcutting, excavation, hand excavation, vacuum excavation, backfill and compaction, T-Grinding and HMA placement and no additional compensation will be allowed therefor. A lack of information and markings from "Call 811 Before You Dig"/"USA North 811" shall not excuse the Contractor from locating utilities with sufficient accuracy to complete work without damaging existing utilities, or from restoring utilities damaged by the Contractor in the course of the work to original condition at no cost to County.

## **2-2.04 BID ITEM 4**

### **Circuit Breaker and Meter to Main Switchboard**

Circuit Breaker and Meter as specified shall be furnished and installed to the existing NCOC Main Switchboard which is housed within the Electrical Room (Room 121). The new Meter shall be installed with an ethernet, or wireless connection made to the NCOC network server in the Server Room (Room 114). For estimating purposes, an ethernet connection to the Server Room shall be the basis.

Conform to:

Attachment 1 – Electrical Specifications

For location of Electrical and Server Rooms refer to:

Attachment 3 – NCOC Conformed Set

### **Bid Item 4 Payment**

Lump sum Bid Item 4, "Circuit Breaker and Meter to Main Switchboard" includes full compensation for furnishing all labor, materials, tools, equipment and incidentals for doing all the work involved to furnish and install the specified Circuit Breaker and Meter to be connected by the Contractor to the existing Main Switchboard of the NCOC electrical room, and an ethernet or wireless connection from the new Meter to the NCOC network server in the Server Room in conformance with the Special Provisions, and as directed by the Engineer including furnishing and installing all conductors, cables, conduit, enclosures, fittings and incidentals, and completing all necessary work to connect the specified circuit breaker and meter to the existing electrical system to provide a fully operational circuit breaker, and a fully operational electrical meter with a fully operational ethernet connection to the County network and no additional compensation will be allowed therefor.

## **2-2.05 BID ITEM 5**

### **Pull Box**

The Contractor shall furnish and install pull boxes at the locations shown on the Plans. The Contractor shall reinstate the area where pull boxes are constructed in accordance with Detail 2/C502.

Conform to:

Attachment 1 – Electrical Specifications

Special Provisions:       Section 10-5, "Dust Control"  
                                  Section 12, "Temporary Traffic Control"  
                                  Section 13, "Water Pollution Control"  
                                  Section 14, "Environmental Stewardship"  
                                  Section 19, "Earthwork"  
                                  Section 20, "Landscape"  
                                  Section 26, "Aggregate Bases"  
                                  Section 39, "Asphalt Concrete"  
                                  Section 52, "Reinforcement"  
                                  Section 77-1, "Trenching and Backfilling"

### **Bid Item 5 Payment**

Bid Item 5, "Pull Box" shall be paid for each complete installation, and includes full compensation for furnishing all labor, materials, tools, equipment and incidentals for doing all the work involved in constructing each pull box at its location as shown on the Plans, including, but not limited to, setting out, sawcutting, removing and disposing of asphalt pavement, excavation, compaction, pull box placement, backfilling, T-Grinding, HMA placement and finishing in accordance with the Plans, Standard Specifications and these Special Provisions, and as directed by the Engineer and no additional compensation will be allowed therefor.

## **2-2.06 BID ITEM 6**

### **Utility Vault**

The Contractor shall furnish and install the utility vault at the location shown on the Plans. The Contractor shall reinstate the area where the utility vault is constructed in accordance with Detail 2/C502.

Conform to:

Attachment 1 – Electrical Specifications

Special Provisions:       Section 10-5, "Dust Control"  
                                  Section 12, "Temporary Traffic Control"  
                                  Section 13, "Water Pollution Control"  
                                  Section 14, "Environmental Stewardship"  
                                  Section 19, "Earthwork"  
                                  Section 20, "Landscape"  
                                  Section 26, "Aggregate Bases"  
                                  Section 39, "Asphalt Concrete"  
                                  Section 52, "Reinforcement"  
                                  Section 77-1, "Trenching and Backfilling"

### **Bid Item 6 Payment**

Bid Item 6, "Utility Vault" includes full compensation for furnishing all labor, materials, tools, equipment and incidentals for doing all the work involved in constructing the utility vault at its location as shown on the Plans, including, but not limited to, setting out, sawcutting, removing and disposing of asphalt pavement, excavation, compaction, utility vault placement, backfilling, T-Grinding, HMA placement and finishing in accordance with the Plans, Standard Specifications and these Special Provisions, and as directed by the Engineer and no additional compensation will be allowed therefor.

## **2-2.07 BID ITEM 7**

### **Ground Rod in Ground Well**

The Contractor shall furnish and install ground rods in ground wells constructed as shown on the Electrical Plans at the locations shown on the Electrical Plans. The Contractor shall reinstate the area where the ground rods in ground wells are constructed in accordance with Detail 2/C502.

Conform to:

Attachment 1 – Electrical Specifications

Attachment 2 – ChargePoint Documentation

Special Provisions:       Section 10-5, "Dust Control"  
                                  Section 12, "Temporary Traffic Control"  
                                  Section 13, "Water Pollution Control"  
                                  Section 14, "Environmental Stewardship"  
                                  Section 19, "Earthwork"

Section 20, "Landscape"  
Section 26, "Aggregate Bases"  
Section 39, "Asphalt Concrete"  
Section 52, "Reinforcement"  
Section 77-1, "Trenching and Backfilling"

### **Bid Item 7 Payment**

Payment for Bid Item 7 "Ground Rod in Ground Well" shall be per each complete installation and includes full compensation for furnishing all labor, materials, tools, equipment and incidentals for doing all the work involved in constructing each ground rod in ground well as shown in the Plans at locations as shown on the Plans. The installation shall also include connecting the ground rod to the charging equipment as required, including, but not limited to, setting out, sawcutting, removing and disposing of asphalt pavement, excavation, compaction, ground well placement, ground rod placement, ground rod connection to charging equipment, sand fill, backfilling, T-Grinding, HMA placement and finishing in accordance with the Plans, Standard Specifications and these Special Provisions, and as directed by the Engineer and no additional compensation will be allowed therefor.

### **2-2.08 BID ITEM 8**

#### **Bollard**

Bollards shall be constructed at locations as shown on the plans in accordance with Detail 5/E2.01.

Bollards shall be factory fabricated and coatings shall be factory applied.

The contractor shall reinstate the disturbed area in accordance with Detail 2/C502.

Conform to:

Attachment 1 – Electrical Specifications

Special Provisions:       Section 10-5, "Dust Control"  
                                  Section 12, "Temporary Traffic Control"  
                                  Section 13, "Water Pollution Control"  
                                  Section 14, "Environmental Stewardship"  
                                  Section 19, "Earthwork"  
                                  Section 20, "Landscape"  
                                  Section 26, "Aggregate Bases"  
                                  Section 77-1, "Trenching and Backfilling"  
                                  Section 90, "Concrete"

### **Bid Item 8 Payment**

Bid Item 8, "Bollard" shall be paid for each complete installation and includes full compensation for furnishing all labor, materials, tools, equipment and incidentals for doing all the work involved in constructing each bollard at its location as shown on the plans in accordance with Detail 5/E2.01 and these Special Provisions, and as directed by the Engineer including but not limited to setting out the work, excavating, storage and disposal of excavated material, compaction, setting pipe sleeve, painting and coating, identifying devices, placing and finishing concrete, backfilling and compaction, and no additional compensation will be allowed therefor.

### **2-2.09 BID ITEM 9**

#### **Removable Bollard**

Removable bollards shall be constructed in accordance with Detail 1/C501 and these Special Provisions.



The concrete bases of the removable bollards shall be placed separately to the concrete for the Power Link equipment pad so that there is a cold joint between them. This joint will allow for reduced damage to the equipment pad if the removable bollard is hit by a bus.

Asphalt pavement shall be reinstated in the same way as for trenches as shown in detail 2/C502.

Removable bollards shall be factory fabricated and coatings shall be factory applied.

Retroreflective tape for removable bollards shall comply with Table 2A-3, "Minimum Maintained Retroreflectivity Levels" of the California Manual on Uniform Traffic Control Devices (MUTCD) and be on the Authorized Material List for signing and delineation materials.

Conform to:

Special Provisions:       Section 10-5, "Dust Control"  
                                  Section 12, "Temporary Traffic Control"  
                                  Section 13, "Water Pollution Control"  
                                  Section 14, "Environmental Stewardship"  
                                  Section 19, "Earthwork"  
                                  Section 26, "Aggregate Bases"  
                                  Section 39, "Asphalt Concrete"  
                                  Section 77-1, "Trenching and Backfilling"  
                                  Section 90, "Concrete"

### **Bid Item 9 Payment**

Bid Item 9, "Removable Bollard" shall be paid for each complete installation, and includes full compensation for furnishing all labor, materials, tools, equipment and incidentals for doing all the work involved in constructing bollards at locations as shown on the plans in accordance with Detail 1/C501, these Special Provisions, and as directed by the Engineer including but not limited to setting out the work, establishing level and slope, sawcutting existing pavement, removal and disposal of asphalt pavement, excavating, disposal of excavated material, compaction, setting and stripping formwork, setting pipe sleeve, welding and finish pipefitting, painting and coatings, identifying devices, retroreflective tape, placing and finishing concrete, backfilling and compaction, T-Grinding, and placing and finishing HMA and no additional compensation will be allowed therefor.

### **2-2.10 BID ITEM 10**

#### **EVCS-1 Power Block Equipment Pad and Power Link Equipment Pad**

The equipment pads for the OFCI ChargePoint Express Plus Power Block and Power Link shall be constructed as indicated by and located on the Plans.

The contractor shall reinstate the disturbed area in accordance with the Plans.

Concrete Mounting Templates and conduit penetrations shall be placed in accordance with: Attachment 2 – ChargePoint Documentation.

Ground conductors shall be provided and connected to the charging equipment.

Conform to:

Attachment 1 – Electrical Specifications

Special Provisions:       Section 10-5, "Dust Control"  
                                  Section 12, "Temporary Traffic Control"  
                                  Section 13, "Water Pollution Control"  
                                  Section 14, "Environmental Stewardship"  
                                  Section 19, "Earthwork"  
                                  Section 20, "Landscape"

Section 26, "Aggregate Bases"  
Section 39, "Asphalt Concrete"  
Section 52, "Reinforcement"  
Section 77-1, "Trenching and Backfilling"  
Section 90, "Concrete"

### **Bid Item 10 Payment**

Lump sum Bid Item 10, "EVCS-1 Power Block Equipment Pad and Power Link Equipment Pad" includes full compensation for furnishing all labor, materials, tools, equipment and incidentals for doing all the work involved in constructing equipment pads for the OFCI EVCS-1 Power Block and Power Link at locations as shown on the plans including but not limited to setting out, sawcutting, removing and disposing of asphalt pavement, excavation, compaction, setting and stripping formwork, setting and verifying level and slope, placing reinforcing steel, placing mounting templates, coordination of all required pad penetrations, ground conductor, placing and finishing concrete, backfilling, T-Grinding, HMA placement and finishing in accordance with the Plans, Standard Specifications and these Special Provisions, and as directed by the Engineer and no additional compensation will be allowed therefor.

### **2-2.11 BID ITEM 11**

#### **EVCS-1 Conduits and Conductors**

Conduits, power conductors, low voltage conductors and signal cables as specified for EVCS-1 shall be furnished and installed complete, in-place as shown on the Plans.

The contractor shall reinstate the disturbed area in accordance with Detail 2/C502.

Conform to:

Attachment 1 – Electrical Specifications

Attachment 2 – ChargePoint Documentation

Special Provisions:      Section 10-5, "Dust Control"  
                                    Section 12, "Temporary Traffic Control"  
                                    Section 13, "Water Pollution Control"  
                                    Section 14, "Environmental Stewardship"  
                                    Section 19, "Earthwork"  
                                    Section 20, "Landscape"  
                                    Section 26, "Aggregate Bases"  
                                    Section 39, "Asphalt Concrete"  
                                    Section 77-1, "Trenching and Backfilling"  
                                    Section 90, "Concrete"

### **Bid Item 11 Payment**

Bid Item 11, "EVCS-1 Conduits and Conductors" includes full compensation for furnishing all labor, materials, tools, equipment and incidentals for doing all the work involved in furnishing and installing all EVCS-1 conduits, power conductors, low voltage conductors and signal cables in conformance with the Plans and Special Provisions, and as directed by the Engineer including but not limited to setting out the work, sawcutting existing pavement, removal and disposal of asphalt pavement, trench excavation, disposal of excavated material, backfilling, compaction, conduit and necessary fitting installation, power conductor installation, low voltage conductor installation, signal cable installation, magnetic marker placement, T-Grinding, and placing and finishing HMA and no additional compensation will be allowed therefor.

### **2-2.12 BID ITEM 12**

## **Conduits for Future EVCS**

Conduits for future EVCS (EVCS-2 to EVCS-6) shall be furnished and installed complete, in-place as shown on the plans.

The contractor shall reinstate the disturbed area in accordance with Detail 2/C502.

Conform to:

Attachment 1 – Electrical Specifications

Attachment 2 – ChargePoint Documentation

Special Provisions:           Section 10-5, “Dust Control”  
                                  Section 12, “Temporary Traffic Control”  
                                  Section 13, “Water Pollution Control”  
                                  Section 14, “Environmental Stewardship”  
                                  Section 19, “Earthwork”  
                                  Section 20, “Landscape”  
                                  Section 26, “Aggregate Bases”  
                                  Section 39, “Asphalt Concrete”  
                                  Section 77-1, “Trenching and Backfilling”  
                                  Section 90, “Concrete”

## **Bid Item 12 Payment**

Bid Item 12, “Conduits for Future EVCS” includes full compensation for furnishing all labor, materials, tools, equipment and incidentals for doing all the work involved in furnishing and installing all Phase-1 Conduits for future EVCS in conformance with the Plans and Special Provisions, and as directed by the Engineer including but not limited to setting out the work, sawcutting existing pavement, removal and disposal of asphalt pavement, trench excavation, disposal of excavated material, backfilling, compaction, conduit and necessary fitting placement, magnetic marker placement, pulling tape installation, T-Grinding, and placing and finishing HMA and no additional compensation will be allowed therefor.

## **2-2.13 BID ITEM 13**

### **EVCS-1 Power Block (OFCI) and Power Link (OFCI)**

The Owner has purchased the ChargePoint Express Plus charging system and it is in storage on-site.

Refer to Attachment 2 – ChargePoint Documentation for an indication of items needed for installation of the ChargePoint Power Block and Power Link that shall be CFCI not OFCI.

All labor and equipment for this bid item shall be provided by the Contractor. The Contractor’s labor for installation of this item shall include startup commissioning and testing and must result in a fully operational charging system.

All additional materials and incidentals necessary to completely install and fully connect the Power Block and Power Link in-place on-site as shown on the plans that are not documented as being provided by ChargePoint with the Power Block and Power Link shall be furnished and installed by the Contractor.

Conform to:

Attachment 1 – Electrical Specifications

Attachment 2 – ChargePoint Documentation

Special Provisions:           Section 6-1.02, “County Furnished Material”  
                                  Section 12, “Temporary Traffic Control”  
                                  Section 13, “Water Pollution Control”

## Section 14, "Environmental Stewardship"

### **Bid Item 13 Payment**

Lump sum Bid Item 13, "EVCS-1 Power Block (OFCl) and Power Link (OFCl)" includes full compensation for furnishing all labor and equipment necessary to completely transport, install and fully connect the Power Block and Power Link in-place on-site to produce a fully operational charging system as described in the ChargePoint Documentation, as shown on the Plans, in conformance with these Special Provisions and as directed by the Engineer, and no additional compensation will be allowed therefor.

This bid item also includes full compensation to coordinate startup commissioning with ChargePoint, and to furnish and install all additional materials and incidentals necessary for the Contractor to completely install and fully connect the Power Block and Power Link in-place on-site as shown on the plans which is not documented as being provided by ChargePoint with the Power Block and Power Link, and no additional compensation will be allowed therefor.

### **2-2.14 BID ITEM 14**

#### **Remove Existing Striping and Restripe Bus Parking Spaces**

Conform to:

Special Provisions: Section 10-5, "Dust Control"  
Section 12, "Temporary Traffic Control"  
Section 13, "Water Pollution Control"  
Section 14, "Environmental Stewardship"  
Section 84-2, "Traffic Stripes and Pavement Markings"  
Section 84-9, "Existing Markings"

### **2-2.15 BID ITEM 15**

#### **As-Built Drawings**

Conform to:

Special Provisions: Section 5-1.23B(3), "As-Built Drawings"

### **2-2.16 BID ITEM 16**

#### **Rock Excavation**

Conform to:

Special Provisions: Section 19-4.05, "Rock Excavation"

## **SECTION 3 CONTRACT AWARD AND EXECUTION**

### **3-1.01 GENERAL**

The bidder's attention is directed to the provisions of Section 3, "Contract Award and Execution", of the Standard Specifications and these Special Provisions for the requirements and conditions concerning the award and execution of the contract.

For each July during which work is performed under the contract, you and each non-material-supplier subcontractor with a subcontract of \$10,000 or more must complete Form FHWA PR-1391 (Appendix C to 23 CFR 230). Submit the forms by August 15.

Bid protests are to be delivered to the following address:

**USPS, Fed Ex, UPS, etc. to:**

Nevada County Purchasing Division    **or**  
Eric Rood Administration Center

**Hand deliver to:**

Nevada County Purchasing Division  
Eric Rood Administration Center

Suite 129  
950 Maidu Avenue  
PO BOX 599002  
Nevada City, CA 95959-7902

Suite 129  
950 Maidu Avenue  
Nevada City, CA 95959-7902

The contract shall be executed by the successful bidder and shall be returned, together with the contract bonds and insurance, to the Agency so that it is received within **10 days**, not including Saturdays, Sundays and legal holidays, after the bidder has received the contract for execution. Failure to do so shall be just cause for forfeiture of the bid guaranty. The executed contract documents shall be delivered to the following address:

Nevada County Department of Public Works  
Suite 170  
950 Maidu Avenue  
PO BOX 599002  
Nevada City, CA 95959-7902

### **3-1.04 CONTRACT AWARD**

Conform to 3-1.04, "Contract Award", of the Standard Specifications, and these Special Provisions.

The right is reserved to reject any and all bids.

If the Agency awards the contract, the award is made to the lowest responsible and responsive bidder.

Exhibit 15-G Construction Contract DBE Commitment forms (modified) for both MBE and WBE is included in the Bid Book to be executed by the successful bidder. The purpose of the form is to collect data required under 49 CFR 26. Even if no DBE participation will be reported, the successful bidder must execute and return the form.

The successful bidder's Exhibit 15-G Construction Contract DBE Commitment (modified) forms should include the names, addresses and phone numbers of DBE firms that will participate, with a complete description of work or supplies to be provided by each, and the dollar value of each DBE transaction. When 100 percent of a contract item of work is not to be performed or furnished by a DBE, a description of the exact portion of that work to be performed or furnished by that DBE should be included in the DBE information, including the planned location of that work. A successful bidder certified as a DBE should describe the work it has committed to performing with its own forces as well as any other work that it has committed to be performed by DBE subcontractors, suppliers and trucking companies.

The successful bidder is encouraged to provide written confirmation from each DBE that the DBE is participating in the contract. A copy of a DBE's quote will serve as written confirmation that the DBE is participating in the contract. If a DBE is participating as a joint venture partner, the successful bidder is encouraged to submit a copy of the joint venture agreement. Exhibit 15-G Construction Contract DBE Commitment form shall be completed and returned to Nevada County Department of Public Works by the successful bidder with the executed contract and contract bonds.

### **3-1.05 CONTRACT BONDS (PUBLIC CONTRACT CODE §§ 10221 AND 10222)**

Conform to Section 3-1.05, "Contract Bonds (Pub Cont Code §§ 10221 and 10222)", of the Standard Specifications, and these Special Provisions.

The successful bidder must furnish 2 bonds:

1. Payment bond to secure the claim payments of laborers, workers, mechanics, or materialmen providing goods, labor, or services under the Contract. This bond must be equal to at least 100 percent of the total bid.

2. Performance bond to guarantee the faithful performance of the Contract. This bond must be equal to at least 100 percent of the total bid.

Signed contract and bonds are due within 30 days of Notice of Award.

Sureties on each of said bonds shall be satisfactory to the County Attorney.

Should any bond become insufficient, the Contractor shall renew the bond within ten (10) working days after receiving notice from the Engineer.

Should any Surety at any time be unsatisfactory to the County, notice will be given the Contractor to that effect. No further payments shall be deemed due or will be made under said agreement until a new Surety shall qualify and be accepted by the County.

Changes in said agreement of extensions of time, made pursuant to the agreement, shall in no way release the Contractor or Surety from its obligations. Notice of such changes or extensions shall be waived by the Surety.

### **3-1.06 CONTRACTOR LICENSE**

Conform to 3-1.06, "Contractor License", of the Standard Specifications, and these Special Provisions.

The Contractor must be properly licensed as a contractor from contract award through contract acceptance (Public Contract Code § 10164).

### **Delete Section 3-1.08**

### **Delete Section 3-1.11**

### **3-1.12 CALTRANS BIDDER - DBE INFORMATION FORM**

Complete and sign Exhibit 15-G Construction Contract DBE Commitment form (modified) included in the contract documents regardless of whether DBE participation is reported.

Provide written confirmation from each DBE that the DBE is participating in the Contract. A copy of a DBE's quote serves as written confirmation. If a DBE is participating as a joint venture partner, the County encourages you to submit a copy of the joint venture agreement.)

### **3-1.13 FORM FHWA-1273**

Conform to Section 3-1.13, "Form FHWA-1273", of the Standard Specifications, and these Special Provisions.

In the *Subcontractor List*, you must submit each subcontracted bid item number and corresponding percentage with your bid and each subcontractors Department of Industrial Relations Registration Number.

### **3-1.18 CONTRACT EXECUTION**

Replace Section 3-1.18 with:

The successful bidder must sign the *Contract*.

Deliver to the Office Engineer:

1. Signed *Contract* including the attached Form FHWA-1273
2. Contract bonds
3. Documents identified in section 3-1.07
4. Exhibit 15-G Construction Contract DBE Commitment form (modified)

The Office Engineer must receive these documents before the 5th business day after the bidder receives the contract.

The bidder's security may be forfeited for failure to execute the contract within the time specified (Pub Cont. Code §§ 10181, 10182, and 10183).

## **SECTION 4 SCOPE OF WORK**

### **4-1.03 WORK DESCRIPTION**

Perform work as described in the Invitation to Bid.

### **4-1.05B WORK-CHARACTER CHANGES**

Conform to Section 4-1.05B, "Work-Character Changes", of the Standard Specifications, and these Special Provisions.

#### **SIGNIFICANT CHANGES IN THE CHARACTER OF WORK**

1. The engineer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the contract nor release the surety, and the contractor agrees to perform the work as altered.
2. If the alterations or changes in quantities significantly change the character of the work under the contract, whether such alterations or changes are in themselves significant changes to the character of the work or by affecting other work cause such other work to become significantly different in character, an adjustment, excluding anticipated profit, will be made to the contract. The basis for the adjustment shall be agreed upon prior to the performance of the work. If a basis cannot be agreed upon, then an adjustment will be made either for or against the contractor in such amount as the engineer may determine to be fair and equitable.
3. If the alterations or changes in quantities do not significantly change the character of the work to be performed under the contract, the altered work will be paid for as provided elsewhere in the contract.
4. The term "significant change" shall be construed to apply only to the following circumstances:
  - When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction; or
  - When a major item of work, as defined elsewhere in the contract, is increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original contract item quantity, or in case of a decrease below 75 percent, to the actual amount of work performed.

### **4-1.06 DIFFERING SITE CONDITIONS (23 CFR 635.109)**

The following shall be substituted for Section 4-1.06, "Differing Site Conditions (23 CFR 635.109)," of the Standard Specifications:

#### **4-1.06A GENERAL**

Not used

#### **4-1.06B CONTRACTOR'S NOTIFICATION**

Conform to Section 4-1.06B, "Contractor's Notification", of the Standard Specifications, and these Special Provisions.

During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions

before the site is disturbed and before the affected work is performed.

No contract adjustment which results in a benefit to the contractor will be allowed unless the contractor has provided the required written notice.

No contract adjustment will be allowed under this clause for any effects caused on unchanged work.

#### **4-1.06C ENGINEER'S INVESTIGATION AND DECISION**

Upon written notification, the engineer will investigate the conditions, and if it is determined that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an adjustment, excluding anticipated profits, will be made and the contract modified in writing accordingly. The engineer will notify the contractor of the determination whether or not an adjustment of the contract is warranted.

The Contractor will be allowed 15 days from the notification of the Engineer's determination of whether or not an adjustment of the contract is warranted, in which to file a notice of potential claim in conformance with the provisions of Section 5-1.43C, "Supplemental Potential Claim Record", of the Standard Specifications and as specified herein; otherwise the decision of the Engineer shall be deemed to have been accepted by the Contractor as correct. The notice of potential claim shall set forth in what respects the Contractor's position differs from the Engineer's determination and provide any additional information obtained by the Contractor, including but not limited to additional geotechnical data. The notice of potential claim shall be accompanied by the Contractor's certification that the following were made in preparation of the bid: a review of the contract, a review of the "Materials Information", a review of the log of test borings and other records of geotechnical data to the extent they were made available to bidders prior to the opening of bids, and an examination of the conditions above ground at the site. Supplementary information, obtained by the Contractor subsequent to the filing of the notice of potential claim, shall be submitted to the Engineer in an expeditious manner.

#### **4-1.13 CLEANUP**

Conform to Section 4-1.13, "Cleanup", of the Standard Specifications, and these Special Provisions.

Cleanup shall consist of removing and disposing of all unused construction materials or any other waste materials, trash or debris produced in connection with work. All parts of the work area shall be left in a neat presentable condition.

Full compensation for conforming to the requirements of this section shall be considered as included in the prices paid for the various contract items of work involved and no additional compensation will be allowed therefor.

## **SECTION 5 CONTROL OF WORK**

### **5-1.02 CONTRACT COMPONENTS**

Conform to Section 5-1.02, "Contract Components", of the Standard Specifications, and these Special Provisions.

A component in one Contract part applies as if appearing in each. The parts are complementary and describe and provide for a complete work.

In the case of ambiguity or conflict, the documents shall be given the following priority:

1. Governing ranking of Contract parts in descending order is:
  - 1.1. Contract
  - 1.2. Instructions to Bidders, including addendums
  - 1.3. Project Special Provisions
  - 1.4. Project plans



- 1.5. Revised standard specifications
  - 1.6. Standard specifications
  - 1.7. Revised standard plans
  - 1.8. Standard plans
  - 1.9. Supplemental project information
  - 1.10. Nevada County Road Standards and Nevada County Standard Road Drawings
2. Written numbers and notes on a drawing govern over graphics
  3. Detail drawing governs over a general drawing
  4. Specific specification governs over a general specification
  5. Specification in a section governs over a specification referenced by that section
  6. Manufacturer's installation drawings and instructions govern over Engineer's drawings and specifications, but Engineer shall be notified of discrepancies or conflicts before Contractor proceeds with work.

If a discrepancy is found or confusion arises, submit an RFI.

### **5-1.13 SUBCONTRACTING**

Conform to Section 5-1.13, "Subcontracting", of the Standard Specifications, and these Special Provisions.

No subcontract releases the Contractor from the contract or relieves the Contractor of their responsibility for a subcontractor's work.

If the Contractor violates Pub Cont. Code § 4100 et seq., the County of Nevada may exercise the remedies provided under Pub Cont. Code § 4110. The County of Nevada may refer the violation to the Contractors State License Board as provided under Pub Cont. Code § 4111.

The Contractor shall perform work equaling at least 30 percent of the value of the original total bid with the Contractor's own employees and equipment owned or rented, with or without operators.

Each subcontract must comply with the contract.

Each subcontractor must have an active and valid State contractor's license with a classification appropriate for the work to be performed (Bus & Prof Code, § 7000 et seq.).

Submit copies of subcontracts upon request by the Engineer.

Before subcontracted work starts, submit a Subcontracting Request form.

Do not use a debarred contractor; a current list of debarred contractors is available at the Department of Industrial Relations' Web site.

Upon request by the Engineer, immediately remove and not again use a subcontractor who fails to prosecute the work satisfactorily.

Each subcontract and any lower tier subcontract that may in turn be made shall include the "Required Contract Provisions Federal-Aid Construction Contracts". Noncompliance shall be corrected. Payment for subcontracted work involved will be withheld from progress payments due, or to become due, until correction is made. Failure to comply may result in termination of the contract.

### **5-1.13B DISADVANTAGED BUSINESS ENTERPRISES**

Conform to Section 5-1.13B, "Disadvantaged Business Enterprises", of the Standard Specifications, and these Special Provisions.

DBEs must perform work or supply materials as listed in the Local Agency Bidder DBE Commitment (Construction Contracts), Exhibit 15-G (modified), included in the Bid.

Do not terminate or substitute a listed DBE for convenience and perform the work with your own forces or obtain materials from other sources without authorization from the Agency.

The Agency authorizes a request to use other forces or sources of materials if it shows any of the following justifications:

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.
2. You stipulate a bond is a condition of executing the subcontract and the listed DBE fails to meet your bond requirements.
3. Work requires a contractor's license and listed DBE does not have a valid license under Contractors License Law.
4. Listed DBE fails or refuses to perform the work or furnish the listed materials.
5. Listed DBE's work is unsatisfactory and not in compliance with the contract.
6. Listed DBE is ineligible to work on the project because of suspension or debarment.
7. Listed DBE becomes bankrupt or insolvent.
8. Listed DBE voluntarily withdraws with written notice from the Contract.
9. Listed DBE is ineligible to receive credit for the type of work required.
10. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the Contract.
11. Agency determines other documented good cause.

Notify the original DBE of your intent to use other forces or material sources and provide the reasons. Provide the DBE with 5 days to respond to your notice and advise you and the Agency of the reasons why the use of other forces or sources of materials should not occur. Your request to use other forces or material sources must include:

1. One or more of the reasons listed in the preceding paragraph
2. Notices from you to the DBE regarding the request
3. Notices from the DBEs to you regarding the request

If a listed DBE subcontractor is terminated, you must make good faith efforts to find another DBE subcontractor to substitute for the original DBE. The substitute DBE must perform at least the same amount of work as the original DBE under the contract to the extent needed to meet the DBE goal.

The substitute DBE must be certified as an MBE/WBE at the time of request for substitution.

Unless the Agency authorizes (1) a request to use other forces or sources of materials or (2) a good faith effort for a substitution of a terminated DBE, the Agency does not pay for work listed on the Local Agency Bidder DBE Commitment (Construction Contracts), Exhibit 15-G (modified), form unless it is performed or supplied by the listed DBE or an authorized substitute.

### **5-1.23B(3) AS-BUILT DRAWINGS**

The contractor shall be responsible for maintaining as-built drawings throughout the course of construction. Such drawings shall record the location and details of all improvements constructed and shall be submitted to the Construction Inspector prior to, and in consideration of the owners acceptance of the work.

Two full-size hard copies of the final as-built drawings shall be provided to the County at the NCOG, and the PDF copy of the as-built drawings electronically.

### **PAYMENT**

The contract item "As-Built Drawings" includes full compensation for furnishing all labor, materials, tools, equipment and incidentals for doing all the work involved in providing complete, accurate and clear as-built drawings in accordance with these Special Provisions and no additional compensation will be allowed therefor.

### **5-1.24 CONSTRUCTION SURVEYS**

Section 5-1.24, "Construction Surveys", is deleted in its entirety.

### **5-1.26 CONSTRUCTION SURVEYS**

Section 5-1.26, is amended to read:

The Contractor is responsible for providing all construction staking necessary to control lines and grades in conformance with the plans, and staking must be adequate to accurately locate all design elements of contract work within tolerances set forth in the Standard Specifications. Any deviation from specified lines and grades requires prior approval from Engineer. All construction staking must be performed by or under the direction of a California licensed Land Surveyor.

Construction staking must include the following, as applicable:

1. Clearing limits (as required for demolition, vegetation removal, and other construction staking)
2. Slope and rough grading
3. Finish grading
4. Curbing and flatwork
5. Storm drains and culverts
6. Utilities (electrical, sanitary, water, etc.)
7. Right of way and fencing
8. Any buildings or structures
9. Any other item of work requiring precise location, either horizontally and/or vertically

"Working stakes" or fill-in staking may be set by contractor's forces.

Contractor is responsible for maintenance and integrity of stakes during both work and non-work hours. Construction staking lost or damaged during non-work hours must be replaced at no expense to County of Nevada.

Supply the County for review any Construction Survey data as requested. Such data typically may include: cut sheets, point plots, electronic files and field notes. County reserves right to review and approve said data prior to placement and/or construction and may confirm accuracy of construction.

Full compensation for furnishing all labor, materials, tools, equipment and incidentals for completing all the work involved in conforming to the requirements of this section shall be considered as included in the contract prices paid for the various items of work involved in this project and no additional compensation will be allowed therefor.

### **5-1.43 POTENTIAL CLAIMS AND DISPUTE RESOLUTION**

Conform to Section 5-1.43, "Potential Claims and Dispute Resolution", of the Standard Specifications, and these Special Provisions.

Revisions to Section 5-1.43A dated 10-19-18 are deleted in their entirety.

## **SECTION 6-1 CONTROL OF MATERIALS - GENERAL**

### **6-1.02 COUNTY-FURNISHED MATERIAL**

Section 6-1.02, "Department Furnished Materials" is amended to read:

The Contractor is responsible for the cost of replacing lost or damaged County-furnished material. The County deducts replacement costs. County furnished material not used in the work remains the property of the County.

The only County-furnished material for this project is the ChargePoint charging equipment.

The charging equipment is currently stored beneath an awning at the rear of the NCOC main building. It is the Contractor's responsibility to coordinate access and to transport the charging equipment from the storage location to the installation location using Contractor's equipment and staff.

Responsibility for damage to the charging equipment while being transported by Contractor's equipment or staff is the responsibility of the Contractor whether within or outside of the storage area.

Contractor shall be responsible for any damage or loss caused by moving, unpacking, storing or staging, assembling/disassembling or installing the charging equipment including loss or damage of any components, templates, or documentation delivered loose (not attached to Power Block or Power Link) and moved by the Contractor, or components assembled/disassembled by the Contractor whether within or outside of the storage area.

Should Contractor need to store the charging equipment or components between the time they are removed from the County storage area until final installation, storage shall be in a weatherproof and secure area provided by contractor or back in the County storage area if approved by and coordinated with County.

The County-furnished ChargePoint equipment shall be handled, assembled, installed, connected, started up, and commissioned in conformance with all vendor requirements as detailed in Attachment 2 – ChargePoint Documentation.

## **6-1.04 BUY AMERICA**

### **6-1.04A General**

Buy America requirements do not apply to the following:

1. Tools and construction equipment used in performing the work
2. Temporary work that is not incorporated into the finished project

### **6-1.04B Crumb Rubber (Pub Res Code § 42703(d))**

Furnish crumb rubber with a certificate of compliance. Crumb rubber must be:

1. Produced in the United States
2. Derived from waste tires taken from vehicles owned and operated in the United States

### **6-1.04C Steel and Iron Materials**

Steel and iron materials must be melted and manufactured in the United States except:

1. Foreign pig iron and processed, pelletized, and reduced iron ore may be used in the domestic production of the steel and iron materials
2. If the total combined cost of the materials produced outside the United States does not exceed the greater of 0.1 percent of the total bid or \$2,500, the material may be used if authorized

Furnish steel and iron materials to be incorporated into the work with certificates of compliance and certified mill test reports. Mill test reports must indicate where the steel and iron were melted and manufactured.

All melting and manufacturing processes for these materials, including an application of a coating, must occur in the United States. Coating includes all processes that protect or enhance the value of the material to which the coating is applied.

### **6-1.04D Manufactured Products**

Iron and steel used in precast concrete manufactured products must meet the requirements of section 6-1.04C regardless of the amount used.

Iron and steel used in other manufactured products must meet the requirements of section 6-1.04C if the weight of steel and iron components constitute 90 percent or more of the total weight of the manufactured product.

### **6-1.04E Construction Materials**

Buy America requirements apply to the following construction materials unless otherwise specified:

1. Non-ferrous metals
2. Plastic and polymer-based products such as:
  - 2.1. Polyvinylchloride
  - 2.2. Composite building materials
  - 2.3. Polymers used in fiber optic cables
3. Glass
4. Lumber
5. Drywall

Where one or more of these construction materials have been combined by a manufacturer with other materials through a manufacturing process, Buy America requirements do not apply unless otherwise specified.

Furnish construction materials to be incorporated into the work with certificates of compliance with each project delivery. Manufacturer's certificate of compliance must identify where the construction material was manufactured and attest specifically to Buy America compliance.

All manufacturing processes for these materials must occur in the United States.

#### **6-1.04F GENERAL**

##### **USE OF UNITED STATES-FLAG VESSELS (CARGO PREFERENCE ACT)**

The CONTRACTOR agrees-

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carries, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.
2. To Furnish within 20 days following the date of loading for shipments originating within the United State or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.
3. To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract.

#### **SECTION 6-2 CONTROL OF MATERIALS - QUALITY ASSURANCE**

##### **6-2.01 GENERAL**

Conform to Section 6-2, "Quality Assurance", of the Standard Specifications, and these Special Provisions.

The Local Agency uses a Quality Assurance Program (QAP) to ensure a material is produced to comply with the contract. The Local Agency may examine the records and reports of tests the prime contractor performs if they are available at the job site.

The contractor may examine the records and reports for the tests the Agency performs if they are available at the job site.

Schedule work to allow time for QAP.

#### **SECTION 7 LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC**

Conform to Section 7, "Legal Relations and Responsibility to the Public" of the Standard Specifications, and these Special Provisions.

Revisions to Section 7-1.02K(3) dated 10-19-18 are deleted in their entirety.

### **7-1.02I(2) NONDISCRIMINATION**

Conform to Section 7-1.02I(2), "Nondiscrimination", of the Standard Specifications, and these Special Provisions.

Attention is directed to the following Notice that is required by Chapter 5 of Division 4 of Title 2, California Code of Regulations.

### **NOTICE OF REQUIREMENT FOR NONDISCRIMINATION PROGRAM (GOV. CODE, SECTION 12990)**

Your attention is called to the "Nondiscrimination Clause", set forth in Section 7-1.02I(2), "Nondiscrimination", of the Standard Specifications, which is applicable to all nonexempt state contracts and subcontracts and to the "Standard California Nondiscrimination Construction Contract Specifications" set forth therein. The Specifications are applicable to all nonexempt state construction contracts and subcontracts of \$5,000 or more.

Full compensation for conforming to the requirements of this section shall be considered as included in the prices paid for the various contract items of work involved and no additional compensation will be allowed therefor.

### **7-1.02K(2) WAGES**

#### **PREVAILING WAGE**

Conform to Section 7-1.02K(2), "Wages", of the Standard Specifications, and these Special Provisions.

The general prevailing wage rates determined by the Director of Industrial Relations, for the county or counties in which the work is to be done, are available from the California Department of Industrial Relations' (CA DIR) website at <http://www.dir.ca.gov>. These wage rates are not included in the Bid Form and Contract for the project. Changes, if any, to the general prevailing wage rates will be available at the same location.

The Federal minimum wage rates for this project as predetermined by the United States Secretary of Labor are available online at <https://beta.sam.gov/>. Copies of these rates may be examined at the offices described above where project plans, Special Provisions, and bid forms may be seen. Addenda to modify the Federal minimum wage rates, if necessary, will be issued to holders of the Bid Books. Future effective general prevailing wage rates which have been predetermined and are on file with the California Department of Industrial Relations are referenced but not printed in the general prevailing wage rates. Federal wage rates pertinent to this project will be included as an attachment to the final Contract.

**Required for ALL contracts administered under the Caltrans Standard Specifications. The contractor typically must pay the higher of either the State general prevailing wage rates or Federal minimum wage rates.**

Attention is directed to Section 7-1.02K(3), "Certified Payroll Records (Labor Code 1776)", of the Standard Specifications. In addition to the specification, effective January 1, 2016, all contractors and subcontractors are required to submit Electronic Certified Payroll through the CA DIR website's 'Electronic Certified Payroll Reporting System'. Contractors shall submit copies of the Electronic Certified Payroll directly to the County in addition to the CA DIR requirement.

Full compensation for conforming to the requirements of this section shall be considered as included in the prices paid for the various contract items of work involved and no additional compensation will be allowed therefor.

## **7-1.06 INSURANCE**

Section 7-1.06C shall be modified to increase the Employer's Liability Insurance to not less than:

1. \$2,000,000 for each accident for bodily injury by accident
2. \$2,000,000 policy limit for bodily injury by disease
3. \$2,000,000 for each employee for bodily injury by disease

Section 7-1.06D(2) shall be modified to require not less than \$2,000,000 for each occurrence

Section 7-1.06E shall be modified to require a minimum of \$2,000,000 automobile liability insurance

Full compensation for conforming to the requirements of this section shall be considered as included in the prices paid for the various contract items of work involved and no additional compensation will be allowed therefor.

## **SECTION 8 PROSECUTION AND PROGRESS**

### **8-1.02 SCHEDULE**

#### **PROGRESS SCHEDULE**

A progress schedule shall be submitted to the Engineer in accordance with Section 8-1.02, "Schedule", of the Standard Specifications. The schedule shall be prepared using the critical path method (CPM) format.

#### **8-1.02D(10) PAYMENT**

Payment for the required schedules and software is included in the payment for the bid items involved and no additional compensation will be allowed therefor.

#### **8-1.04 START OF JOB SITE ACTIVITIES**

Conform to Section 8-1.04, "Start of Job Site Activities", Section 8-1.05, "Time", and Section 8-1.10, "Liquidated Damages", of the Standard Specifications, and these Special Provisions.

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.

#### **8-1.04B STANDARD START**

Section 8-1.04B, "Standard Start", shall be replaced with the following:

The contractor shall begin work within 15 calendar days after the issuance of the Notice to Proceed.

#### **8-1.05 TIME**

This work shall be diligently prosecuted to completion before the expiration of **40** WORKING DAYS beginning on the fifteenth calendar day after the date shown on the Notice to Proceed.

Construction activity is limited to between 7 a.m. and 7 p.m. Monday through Friday, and between 8 a.m. and 6 p.m. on Saturday. No work is permitted on Sunday.

#### **8-1.06 SUSPENSIONS**

Conform to Section 8-1.06, "Suspensions", of the Standard Specifications, and these Special Provisions.

#### **SUSPENSIONS OF WORK ORDERED BY THE ENGINEER**

1. If the performance of all or any portion of the work is suspended or delayed by the engineer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the contractor shall submit to the

engineer in writing a request for adjustment within 7 calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.

2. Upon receipt, the engineer will evaluate the contractor's request. If the engineer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the engineer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The contractor will be notified of the engineer's determination whether or not an adjustment of the contract is warranted.
3. No contract adjustment will be allowed unless the contractor has submitted the request for adjustment within the time prescribed.
4. No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided or excluded under any other term or condition of this contract.

## **SECTION 9 PAYMENT**

### **9-1.03 PAYMENT SCOPE**

#### **PROMPT PAYMENT FROM THE AGENCY TO THE CONTRACTORS**

The Agency shall make any progress payment within 30 days after receipt of an undisputed and properly submitted payment request from a contractor on a construction contract. If the Agency fails to pay promptly, the Agency shall pay interest to the contractor, which accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied. Upon receipt of a payment request, the Agency shall act in accordance with both of the following:

1. Each payment request shall be reviewed by the Agency as soon as practicable after receipt for the purpose of determining that it is a proper payment request.
2. Any payment request determined not to be a proper payment request suitable for payment shall be returned to the contractor as soon as practicable, but not later than 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.

#### **PROMPT PAYMENT OF WITHHELD FUNDS TO SUBCONTRACTORS**

The agency may hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency, of the contract work, and pay retainage to the prime contractor based on these acceptances. The prime contractor, or subcontractor, shall return all monies withheld in retention from a subcontractor within seven (7) days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency, unless as agreed to in writing by the prime contractor and subcontractor, pursuant to Section 7108.5 of the Business and Professions Code. Any violation of this provision shall subject the violating prime contractor or subcontractor to the penalties, sanctions and other remedies specified in this code Section. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor.

### **9-1.16 PROGRESS PAYMENTS**

Conform to Section 9-1.16, "Progress Payments", of the Standard Specifications, and these Special Provisions.

#### **9-1.16D MOBILIZATION**



Conform to Section 9-1.16D, "Mobilization", of the Standard Specifications, and these Special Provisions.

In addition, payment shall be as follows:

Full compensation for project mobilization shall be considered as included in the contract prices paid for the various items of work involved and no additional compensation will be allowed.

### **9-1.16F RETENTIONS**

Section 9-1.16F, "Retentions", shall be replaced with the following:

Pursuant to Public Contract Code §7201, the County shall retain **five percent (5%)** of Progress Payments as part of security for the fulfillment of the contract by the Contractor, and shall monthly pay to the Contractor, while carrying on the work, the balance not retained as aforesaid, after deducting therefrom all previous payments and all sums to be kept or retained under the provision of the contract. The County will release retention proceeds after the "Date of Completion" in accordance with California Civil Code §3260(c). No such estimate or payment shall be required to be made when, in the judgment of the Engineer, the work is not proceeding in accordance with the provisions of the contract.

For the purpose of making partial payments pursuant to Section 9-1.16, "Progress Payments", of the Standard Specifications, the amount set forth for the contract items of work hereinafter listed shall be deemed to be the maximum value of the contract item of work, which will be recognized for progress payment purposes.

Clearing and Grubbing 100%

After acceptance of the contract pursuant to the provisions in Section 5-1.46, "Final Inspection and Contract Acceptance", of the Standard Specifications, the amount, if any, payable for a contract item of work in excess of the maximum value for progress payment purposes hereinabove listed for the item, will be included for payment in the first estimate made after acceptance of the contract.

No partial payment will be made for any materials on hand which are furnished but not incorporated in the work.

In determining the partial payments to be made to the Contractor, only the following listed materials will be considered for inclusion in the payment as materials furnished but not incorporated in the work: None

### **9-1.17 PAYMENT AFTER CONTRACT ACCEPTANCE**

Conform to Section 9-1.17, "Payment After Contract Acceptance", of the Standard Specifications, and these Special Provisions.

### **PROMPT PROGRESS PAYMENT TO SUBCONTRACTORS**

A prime contractor or subcontractor shall pay any subcontractor not later than 7 days of receipt of each progress payment in accordance with the provisions of Section 7108.5 of the California Business and Professions Code concerning prompt payment to subcontractors. The 7 days is applicable unless a longer period is agreed to in writing. Any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of Section 7108.5 shall subject the violating contractor or subcontractor to the penalties, sanction and other remedies of that section. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor.

### **9-1.17C PROPOSED FINAL ESTIMATE**

Conform to Section 9-1.17C, "Proposed Final Estimate", of the Standard Specifications, and these Special Provisions.

The third paragraph is deleted in its entirety.

### **9-1.22 ARBITRATION**

Conform to Section 9-1.22, "Arbitration", of the Standard Specifications, and these Special Provisions.

Effective January 1, 2017, Public Contract Code §9204, as enacted by AB 626, establishes a claim resolution process required for public works projects. In the event of any conflict between the provisions of Article XXI and Public Contract Code §9204, the provisions of the Public Contract Code shall prevail. The entire section can be found at the following link:

[https://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=PCC&division=2.&title=&part=1.&chapter=9.&article](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PCC&division=2.&title=&part=1.&chapter=9.&article)

## **DIVISION II GENERAL CONSTRUCTION**

### **SECTION 10 GENERAL**

#### **10-5 DUST CONTROL**

Conform to Section 10-5 "Dust Control", of the Standard Specifications, and these Special Provisions.

Dust control shall be provided by the Contractor whenever necessary, including weekends and holidays. Water shall be applied as specified in Section 10-6, "Watering", of the Standard specifications and these Special Provisions.

The application of water shall be subject to control by the Engineer at all times and shall be applied in the amounts at the locations and at the times designated by the Engineer.

#### **PAYMENT**

Full compensation for furnishing all labor, materials, tools, equipment and incidentals for completing all the work involved in Dust Control and Watering shall be considered as included in the contract prices paid for the various items of work involved in this project and no additional compensation will be allowed therefor.

### **SECTION 12 TEMPORARY TRAFFIC CONTROL**

#### **12-1 GENERAL**

Conform to Sections 7-1.04, "Public Safety", and 12-4.02, "Traffic Control Systems", of the Standard Specifications, and these Special Provisions.

The Contractor shall prepare and submit to the Engineer a Traffic Control Plan in conformance with these requirements as the first order of work. The plan shall be developed and submitted by a qualified person, reviewed and approved by the Engineer, and implemented by the Contractor prior to the beginning of work.

All traffic control shall conform to the minimum standards as set forth in the latest edition of the Manual of Traffic Controls for Construction and Maintenance Work Zones, published by the California Department of Transportation as supplemented by the Standard Specifications and these provisions and as directed by the Engineer. **No work will begin prior to approval of the Traffic Control Plan**

The provisions of the Control Plans shall identify various segments of the work site by areas of control requirements and should be used in conjunction with other requirements of the Plans and Specifications. The Contractor is not restricted to operations within any one (1) area or combination of areas and may elect to work more than one (1) area concurrently pursuant to other requirements of the Plans and Special Provisions. The Control Plans should be considered as a minimum requirement during the Contractor's active performance of items of work. Other or

additional requirements may be necessary depending upon the character of the work involved and/or times when construction activity is not in progress. At a minimum, the Traffic Control Plan shall consist of the following:

- a. Placement of the traffic controls as described in Section 12-4.
- b. The base material of construction area signs shall not be plywood.

#### **12-1.04 PAYMENT**

Payment for preparing and submitting the Traffic Control Plan and for furnishing, installing and maintaining all construction area traffic controls including all signs, lights, flaggers, pilot vehicles, temporary railing, barricades and other warning and safety devices as described in the Traffic Control Plan, the Standard Specifications, these Special Provisions and as directed by the Engineer is included in the payment for the bid item "Traffic Control" and no additional compensation will be allowed therefor.

#### **12-3.02B MATERIALS**

Conform to Section 12-3.02B, "Materials", of the Standard Specifications, and these Special Provisions.

Retroreflective traffic cones when used during the hours of darkness shall comply with Section 12-3.02B, "Materials", of the Standard Specifications, except that the sleeves shall be seven (7) inches long.

#### **12-6 TEMPORARY PAVEMENT DELINEATION**

##### **12-6.01 GENERAL**

Upon completion of the Contractor's daily operations which obliterate pavement markings, such pavement markings shall be replaced by temporary markings.

Temporary markings shall utilize reflective traffic tape to recreate the size and shape of the obliterated markings. Reflective traffic tape shall be applied in accordance with the manufacturer's instructions. Temporary markings shall be the same color as the permanent markings.

Temporary markings shall consist of reflective traffic tape applied in pieces not less than four (4) inches long nor less than four (4) inches wide spaced no more than four (4) feet apart.

Temporary markings and delineation shall be maintained daily. Temporary pavement markings shall be removed and disposed of prior to placement of permanent markings.

##### **PAYMENT**

Full compensation for providing all labor, materials, tools, equipment and incidentals for completing all the work involved in furnishing, installing, maintaining, removing and disposing of temporary pavement markings shall be considered as included in the prices paid for the contract items of work that obliterated the existing markings and no separate payment will be made therefor.

### **SECTION 13 WATER POLLUTION CONTROL**

Conform to Section 13, "Water Pollution Control", of the Standard Specifications, and these Special Provisions.

#### **13-1.01 GENERAL**

##### **13-1.01A SUMMARY**

Water pollution control work applies to project where work activities result in less than 1 acre of soil disturbance and projects that qualify for an erosivity waiver. Manage work activities to reduce the discharge of pollutants to surface waters, groundwater, or municipal separate storm sewer systems including contract work item for Water Pollution Control Program.

Do not begin work until the WPCP is accepted.

Your Engineer approved Water Pollution Control Program must be submitted to Caltrans for approval when requesting your encroachment permit rider.

### **13-1.01C SUBMITTALS**

Conform to Section 13-1.01C, "Submittals", of the Standard Specifications, and these Special Provisions.

#### **13-1.01C(1) GENERAL**

Within 10 calendar days, not including Saturdays, Sundays, and legal holidays, of receipt of the executed contract, start the following process for WPCP acceptance:

1. Submit 2 copies of the WPCP and allow 5 days for the Engineer's review. If revisions are required, the Engineer provides comments and specifies the date that the review stopped.
2. Change and resubmit the WPCP within 5 days of receipt of the Engineer's comments. The Engineer's review resumes when the complete WPCP is resubmitted.
3. When the Engineer accepts the WPCP, submit an electronic and 3 printed copies of the accepted WPCP.

If you operate construction support facilities, protect storm water systems or receiving waters from the discharge of potential pollutants by using water pollution control practices. Construction support facilities include:

1. Staging areas
2. Storage yards for equipment and materials
4. Mobile operations
5. Batch plants for PCC and HMA
6. Crushing plants for rock and aggregate
7. Other facilities installed for your convenience such as haul roads

For the Preparation Manual and other water pollution control references, go to the Department's "Construction Storm Water and Water Pollution Control" web site at: <https://dot.ca.gov/programs/construction/storm-water-and-water-pollution-control>

### **13-1.01D QUALITY ASSURANCE**

#### **13-1.01D(4) WATER POLLUTION CONTROL MANAGER**

Conform to Section 13-1.01D(4), "Water Pollution Control Manager", of the Standard Specifications, and these Special Provisions.

##### **13-1.01D(4)(a) GENERAL**

The Contractor shall designate in writing a Water Pollution Control Manager (WPCM).

### **13-1.03 CONSTRUCTION**

#### **13-1.03C INSPECTIONS**

Inspections shall conform to Section 13-1.03C, "Inspections", of the Standard Specifications, and these Special Provisions.

If the following occur, notify the Engineer within 6 hours:

1. You identify discharges into receiving waters or drainage systems causing or potentially causing pollution
2. The job receives a written notice or order from a regulatory agency

No later than 48 hours after the conclusion of a storm event resulting in a discharge, a nonstormwater discharge, or receiving the notice or order, submit:

1. Date, time, location, and nature of the activity, type of discharge and quantity, and the cause of the notice or order
2. Water pollution control practices used before the discharge, or before receiving the notice or order
3. Description of water pollution control practices and corrective actions taken to manage the discharge or cause of the notice.

## **13-2 WATER POLLUTION CONTROL PROGRAM**

### **13-2.01 GENERAL**

#### **13-2.01A SUMMARY**

Conform to Section 13-2.01A, "Summary", of the Standard Specifications, and these Special Provisions.

The work includes preparing a WPCP, obtaining WPCP acceptance, amending the WPCP, and reporting on water pollution control practices at the job site. The WPCP must comply with the Preparation Manual.

You may request, or the Engineer may order, changes to the water pollution control work. Changes may include addition of new water pollution control practices. Additional water pollution control work is change order work.

The WPCP must include water pollution control practices:

1. For storm water and nonstormwater from areas outside of the job site related to project work activities such as:
  - 1.1. Staging areas
  - 1.2. Storage yards
  - 1.3. Access roads
2. For activities or mobile operations related to contractor obtained NPDES Permits
3. Construction support facilities

The WPCP must include a copy of permits obtained by the County such as Fish & Game permits, US Army Corps of Engineers permits, RWQCB 401 Certifications, and RWQCB Waste Discharge Requirements for Aerially Deposited Lead Reuse. The County will provide copies of the permits to you before completion of the WPCP.

#### **WPCP Amendments**

You must amend the WPCP when:

1. Changes in work activities could affect the discharge of pollutants
2. Water pollution control practices are added by change order work
3. Water pollution control practices are added by your discretion

If you amend the WPCP, follow the same process specified for WPCP acceptance.

Retain a printed copy of the accepted WPCP at the job site.

#### **WPCP Schedule**

The WPCP schedule must:

1. Describe when work activities will be performed that could cause the discharge of pollutants in storm water
2. Describe water pollution control practices associated with each construction phase
3. Identify soil stabilization and sediment control practices for disturbed soil areas

### **13-2.03 CONSTRUCTION**

## **IMPLEMENTATION REQUIREMENTS:**

Monitor the National Weather Service Forecast Office on a daily basis. For forecasts, go to:

<https://www.weather.gov/forecastmaps>

Whenever you or the Engineer identifies a deficiency in the implementation of the accepted WPCP:

1. Correct the deficiency immediately, unless the Engineer authorizes an agreed date for correction
2. Correct the deficiency before precipitation occurs

If you fail to correct the deficiency by the agreed date or before the onset of precipitation, the County may correct the deficiency and deduct the cost of correcting the deficiency from payment.

If you fail to comply with "Water Pollution Control" of these Special Provisions, the Engineer will order a suspension of work until the project complies with the requirements of "Water Pollution Control" of these Special Provisions.

The Contractor's responsibility for WPCP implementation shall continue throughout any temporary suspension of work ordered in conformance with the provisions in Section 8-1.05, "Temporary Suspension of Work" of the Standard Specifications.

Install water pollution control practices within 15 days or before predicted precipitation, whichever occurs first except as required sooner as required elsewhere by these Special Provisions.

If actions for the Contractor's convenience disturb one or more acres, the Contractor must pay all costs and be responsible for all delays associated with complying with Order No. 2009-0009- DWQ, NPDES General Permit No. CAS000002) issued by the SWRCB for "Storm Water Discharges Associated with Construction and Land Disturbance Activities".

The General Permit is available at:

<https://www.waterboards.ca.gov>

### **Inspection**

The Water Pollution Control Manager must oversee inspections for water pollution control practices identified in the WPCP:

1. Before a forecasted storm
2. After precipitation that causes site runoff
3. At 24-hour intervals during extended precipitation
4. On a predetermined schedule, a minimum of once a week

The Water Pollution Control Manager must oversee daily inspections of:

1. Storage areas for hazardous materials and wastes
2. Hazardous waste disposal and transporting activities
3. Hazardous material delivery and storage activities
4. Water pollution control practices specified under "Construction Site Management" of these Special Provisions

The Water Pollution Control Manager must use the Storm Water Site Inspection Report provided in the Preparation Manual.

The Water Pollution Control Manager must prepare BMP status reports that include the following:

1. Location and quantity of installed water pollution control practices
2. Location and quantity of disturbed soil for the active or inactive areas

Within 24 hours of finishing the weekly inspection, the Water Pollution Control Manager must submit:

1. Copy of the completed site inspection report
2. Copy of the BMP status report

### **13-2.04 PAYMENT**

Conform to Section 13-2.04, "Payment", of the Standard Specifications, and these Special Provisions.

If you fail to comply with "Water Pollution Control" of these Special Provisions or fail to implement water pollution control practices during each estimate period, the County withholds 25 percent from progress payment.

Withholds for failure to perform water pollution control work are in addition to all other withholds provided for in the contract. The County returns performance failure withholds in the progress payment following the correction for noncompliance.

The contract item "Water Pollution Control Program" includes payment for preparing the Water Pollution Control Program (WPCP), obtaining WPCP acceptance, amending, and implementing the WPCP, and installation, maintenance, monitoring, and inspecting water pollution control practices at the job site, except for items listed separately in the bid list, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer and no additional compensation will be allowed therefor. This payment for "Water Pollution Control Program" shall include complete payment for all items required by General Notes 10, 11 and 12 on sheet C002 of the Plans.

The County does not pay for implementation of water pollution control practices in areas outside the work area.

The County does not pay for water pollution control practices installed at construction support facilities.

The County does not share maintenance costs.

## **SECTION 14 ENVIRONMENTAL STEWARDSHIP**

### **PROTECTION OF ARCHAEOLOGICAL ARTIFACTS**

Attention is directed to Section 14-2.03, "Archaeological Resources," of the Standard Specifications.

In the event that archaeological artifacts or human remains are uncovered during construction activities, the Contractor shall stop work at that location and immediately notify the Engineer.

The Contractor shall dedicate any discovered artifacts, determined as "removable" by a qualified archaeologist, to the appropriate preservation center, or to the County of Nevada.

If buried cultural resources, such as chipped or ground stone, historic debris, building foundations, or human bone, are discovered during ground-disturbing activities, contractors shall stop work within 100 feet of the find.

Full compensation for conforming to the requirements of this section shall be considered as included in the prices paid for the various contract items of work involved and no additional compensation will be allowed therefor.

### **14-8.02 NOISE CONTROL**

Conform to 14-8.02, "Noise Control", of the Standard Specifications, and these Special Provisions.

The noise level from the Contractor's operations, between the hours of 9:00 p.m. and 6:00 a.m. shall not exceed 86 dba at a distance of 50-feet. This requirement in no way relieves the Contractor from responsibility for complying with local ordinances regulating noise level.

Said noise level requirement shall apply to all equipment on the job or related to the job, including but not limited to trucks, transit mixers or transient equipment that may or may not be owned by the Contractor. The use of loud sound signals shall be avoided in favor of light warnings except those required by safety laws for the protection of personnel.

Operation of construction equipment or noise generating activities shall be limited to the daytime hours of 7:00 a.m. to 7:00 p.m. All internal combustion engines in use on site must be equipped with the original manufacturer's silencers or their aftermarket equivalents in good working order.

## **PAYMENT**

Full compensation for conforming to the requirements of this section shall be considered as included in the prices paid for the various contract items of work involved and no additional compensation will be allowed therefor.

### **14-11.02 DISCOVERY OF UNANTICIPATED ASBESTOS AND HAZARDOUS SUBSTANCES NATURALLY OCCURRING ASBESTOS (NOA)**

Conform to Section 14-11.02, "Discovery of Unanticipated Asbestos and Hazardous Substances", of the Standard Specifications, and these Special Provisions.

The Northern Sierra Air Quality Management District (NSAQMD) enforces the Statewide Asbestos Airborne Toxic Control Measure (ATCM) for construction and grading operations (California Code of Regulations, Title 17, Section 93105). This ATCM specifies the geologic map (The Chico Quadrangle) to be used in determining its applicability.

The geologic map indicates the presence of ultramafic rock in the project area, so the likelihood of encountering naturally occurring Asbestos (NOA) is high. The ATCM applies to this area, as well as to any other area where ultramafic rock or serpentine is discovered during grading.

The following requirements shall apply to this project:

1. No person shall conduct any road construction or maintenance activities that disturb any area that meet any criterion listed in subsections (b)(1) or (b)(2) unless all of the following conditions are met.
  - (A) The Air Pollution Control Office (APCO) is notified in writing at least fourteen (14) days before the beginning of the activity or in accordance with a procedure approved by the district.
  - (B) All of the following dust control measures are implemented during any road construction or maintenance activity:
    1. Unpaved areas subject to vehicle traffic must be stabilized by being kept adequately wetted, treated with a chemical dust suppressant, or covered with material that contains less than 0.25 percent asbestos.
    2. The speed of any vehicles and equipment traveling across unpaved areas must be no more than fifteen(15) miles per hour unless the road surface and surrounding area is sufficiently stabilized to prevent vehicles and equipment traveling more than 15 miles per hour from raising dust that is visible crossing the project boundaries.
    3. Storage piles and disturbed areas not subject to vehicular traffic must be stabilized by being kept adequately wetted, treated with a chemical dust suppressant, or covered with material that contains less than 0.25 percent asbestos; and
    4. Activities must be conducted so that no track-out from any road construction project is visible on any paved roadway open to the public.
  - (C) Equipment and operations must not raise any dust that is visible crossing the project boundaries.

Full compensation for conforming to the requirements of this section shall be considered as included in the prices paid for the various contract items of work involved and no additional compensation will be allowed therefor.

### **14-11.03 HAZARDOUS WASTE MANAGEMENT**

Conform to Section 14-11.03, "Hazardous Waste Management", of the Standard Specifications, and these Special Provisions.



When the presence of asbestos or hazardous substances is not shown on the plans or indicated in the specifications, and the Contractor encounters materials which the Contractor reasonably believes to be asbestos or a hazardous substance as defined in Section 25914.1 of the Health and Safety Code, and the asbestos or hazardous substance has not been rendered harmless, the Contractor may continue work in unaffected areas reasonably believed to be safe. The Contractor shall immediately cease work in the affected area and report the condition to the Engineer in writing.

In conformance with Section 25914.1 of the Health and Safety Code, removal of asbestos or hazardous substances including exploratory work to identify and determine the extent of the asbestos or hazardous substance will be performed by separate contract.

If delay of work in the area delays the current controlling operation, the delay will be considered a right of way delay and the Contractor will be compensated for the delay in conformance with the provisions in Section 8-1.07, "Delays", of the Standard Specifications.

## **DIVISION III EARTHWORK AND LANDSCAPE**

### **SECTION 19 EARTHWORK**

#### **19-1 GENERAL**

Conform to Section 19, "Earthwork", of the Standard Specifications, these Special Provisions and Section 260543 of Attachment 1.

"Earthwork" shall consist of sawcutting, excavating, dewatering, scarifying, backfilling, grading, watering, compacting, and disposing of surplus material in order to construct the items described on the plans.

Trench excavation, sloping, shoring, and protection shall be maintained in accordance with OSHA requirements.

No overhaul will be paid for. No mass diagram has been prepared for this project.

No ponding or jetting will be allowed.

Contractor shall complete all necessary earthwork to construct the Power Block and Power Link equipment pads, vault, pull boxes, grounding equipment and conduit as shown in the plans.

Areas designated to be free, clear, or protected shall not have any permanent facilities installed, or facilities damaged by Contractor or its equipment throughout Construction. Any repair of damages shall be at Contractor's sole expense.

#### **19-1.03A GENERAL**

Conform to Section 19-1.03A, "General", of the Standard Specifications, and these Special Provisions.

Double handling of earthwork materials may be required.

#### **19-1.04 PAYMENT**

Full compensation for furnishing all labor, materials, tools, equipment and incidentals, and for doing all the work involved in performing excavation and backfill in accordance with the plans, Standard Specifications, these Special Provisions and as directed by the Engineer including sawcutting, grinding, removal and disposal of asphalt concrete, excavation, dewatering, trench backfill, watering and compaction, backfill and compaction around exposed existing utilities, disposal of surplus material and oversize rock, watering, dust control, removal and disposal of unsuitable material encountered in excavation and finished subgrade preparation including watering, compacting and finish grading, shall be considered as included in the prices paid for the various contract items of work involved and no additional compensation will be allowed therefor.

#### **19-4.05 ROCK EXCAVATION**

Geotechnical investigation to determine the presence of rock at the conduit trenching, equipment pad, ground rod in ground well, pull box, utility vault and bollard locations has not been undertaken. Any earthwork or excavation required in order to construct the items as shown on the plans that requires working with or removing soil, earthen material, rock, durable rocky material, or any other unyielding material that cannot be achieved by excavator, hydraulic hammer or pneumatic hammer shall be measured and paid per cubic yard (CY) under the contingent item of work shown on the bidding list as "Rock Excavation". As a contingent item of work, the quantity shown on the bidding sheet for Rock Excavation is for bidding comparison purposes only and does not represent an actual quantity estimate. The actual quantity for this item may be greatly increased, decreased or reduced to zero. This bid item is not subject to the provisions of Section 9-106.B, "Increases of More than 25 Percent", or Section 9-1.06C, "Decreases of More than 25 Percent" of the Standard Specifications and therefore shall not constitute a basis for claim by the Contractor for extra payment or damages regardless of the actual quantity constructed.

The use of the above item of work is not shown on the plans and will be as directed in writing by the Engineer.

### **SECTION 20 LANDSCAPE**

#### **20-10 EXISTING LANDSCAPE**

If any irrigation or landscaping items require relocation or restoration, the work shall conform to Section 20-10, "Existing Landscape" of the Standard Specifications and these Special Provisions.

#### **PAYMENT**

Full compensation for all labor, materials, tools, equipment and incidentals for doing all work required to relocate or restore any existing irrigation or landscaping items including relocation, replacement or repair of irrigation equipment, protection or transplanting of existing plants, tree and stump removal and disposal, minor grading, replacement of weed mat, wood chips or gravel, and all other landscaping or irrigation related items shall be considered as included in the prices paid for the various contract items of work involved and no additional compensation will be allowed therefor.

### **DIVISION IV SUBBASES AND BASES**

#### **SECTION 26 AGGREGATE BASES**

##### **26-1.02B CLASS 2 AGGREGATE BASE**

Class 2 aggregate base (3/4-inch maximum) shall conform to the provisions of Section 26, "Aggregate Bases", of the Standard Specifications for Class 2 aggregate base, and these Special Provisions.

The coarse aggregate (material retained on the No. 4 sieve) shall contain at least 50 percent by weight of crushed pieces having 2 or more freshly fractured faces with the area of each fracture being at least equal to 75 percent of the smallest midsectional area of the piece. When two fractured faces are adjacent, the angle between the planes of the fractures must be at least 30 degrees to count as two fractured faces. The amount of flat or elongated particles shall not exceed 30 percent. A flat particle is one having a ratio of width to thickness greater than 3, and an elongated particle is one having a ratio of length to width greater than 3. The coarse aggregate shall consist of angular fragments reasonably uniform in density and quality. The specific gravity (bulk saturated surface dry) as determined by California Test 206 shall be at a minimum 2.58 at an average with no more than 15 percent by weight consisting of particles with a bulk specific gravity below 2.50.

#### **PAYMENT**

Full compensation for furnishing all labor, materials, tools, equipment and incidentals for doing all the work involved in furnishing, placing, compacting, testing and compaction testing of Class 2 aggregate base as described in the Plans and Specifications is included in the payment for the various bid items involved and no additional compensation will be allowed therefor.

## **DIVISION V SURFACING AND PAVEMENTS**

### **SECTION 39 ASPHALT CONCRETE**

#### **39-1.01 GENERAL**

Asphalt Concrete (AC) shall conform to Section 39, "Asphalt Concrete", of the Standard Specifications, and these Special Provisions. Asphalt Binder shall conform to Section 92, "Asphalt Binders" of the Standard Specifications.

Hot Mix Asphalt Concrete (HMA) shall be Type A, 1/2-inch maximum, medium gradation, PG 64-16.

For trenching and equipment pad / bollard construction within areas of existing AC, the existing AC shall be sawcut and removed to allow construction.

After trench work and equipment pad / bollard construction is complete, provide a smooth, straight edge for placement of HMA patch using a "T-Grind". The T-Grind shall be provided by sawcutting 2-inches deep and then grinding AC 2-inches deep and a minimum of 1-foot wide adjacent to the disturbed areas. Cut/ground surfaces shall be coated with Type 3 Seal Coat or Seal Coat with Sand prior to HMA placement.

All HMA placed shall be matched to grade.

The Contractor shall submit an asphalt concrete mix design with substantiating laboratory test results to the Engineer at least two weeks prior to paving operations. The testing laboratory selected by the Contractor shall be under the direction of a California registered Civil Engineer and subject to approval by the County. The Contractor's submittal shall as a minimum consist of Items 1 through 4 below. However, submittal of items 2 through 4 may be waived at the Engineer's option if the Contractor's mix design is satisfactory and has been approved by the County.

1. Proposed gradation of mix and Contractor's bin percentages used to obtain this gradation.
2. Completed worksheets for asphalt concrete mix design in accordance with procedures specified by California Test No. 367.
3. Results for the following tests of the mix incorporating the asphalt binder and aggregate proposed for use:
  - a. Stability of specimen (Ca. Test No. 366) at optimum bitumen content.
  - b. Swell test of specimen (Ca. Test No. 305) at optimum bitumen content.
  - c. Moisture vapor susceptibility of specimen (Ca. Test No. 307) at optimum bitumen content.
4. Results for the following tests of the aggregate proposed for use:
  - a. Sand equivalent (Ca. Test No. 217) of combined aggregate.
  - b. Percentage of crushed particles (Ca. Test No. 205).
  - c. Aggregate wear - 500 rev. (Ca. Test No. 211).
  - d.  $K_c$  and  $K_f$  factors (Ca. Test No. 303).

The Engineer will review the submittal, and, if acceptable, will give approval of the mix design within 5 working days. The Contractor shall not proceed with paving operations until the mix design is approved for this project. Caltrans preapproved mix designs are acceptable.

#### **39-1.04 PAYMENT**

Full compensation for furnishing all labor, materials, tools, equipment and incidentals for doing all the work involved in preparing for and completing hot mix asphalt paving operations including any layout, sawcutting, grinding, removal and disposal of materials and seal coating as described in the Plans and Special Provisions is included in the payment for the various bid items involved and no additional compensation will be allowed therefor.

## **SECTION 52 REINFORCEMENT**

### **52-1.01 GENERAL**

Reinforcing bar shall conform to Section 52, "Reinforcement", of the Standard Specifications, and these Special Provisions.

### **52-1.04 PAYMENT**

Full compensation for furnishing all labor, materials, tools, equipment and incidentals for doing all work required to furnish and install reinforcing bar as required by the plans is included in payment for the bid item "EVCS-1 Power Block Equipment Pad and Power Link Equipment Pad" and no additional compensation will be allowed therefor.

## **SECTION 77-1 TRENCHING AND BACKFILLING**

### **77-1.01 GENERAL**

#### **77-1.01A SUMMARY**

This section includes specifications for trenching and backfilling for the construction of underground facilities. All trenching shall be open cut, unless otherwise approved in writing. The work includes all trenching or tunneling, dewatering, incidental work, and providing specified backfill.

Earthwork shall conform to Section 19, "Earthwork", of the Standard Specifications, the Plans and these Special Provisions.

Excavation shall conform to Section 19, "Earthwork", of the Standard Specifications, the Plans and these Special Provisions. Excavation shall consist of removing soil, rock, durable rocky material, earthen material, or other unyielding material as shown on the plans by excavator, hydraulic hammer, or pneumatic hammer, or other methods approved by the Engineer.

Trenching and backfilling shall conform to the requirements of Attachment 1.

Trenches shall be backfilled as described on the plans.

Trench surfaces shall be paved or plated prior to being opened to traffic.

If conflict is encountered between the various requirements above, the most stringent requirement shall apply.

Contractor shall complete all necessary trenching in order to furnish and install new conduit and conductors for EVCS-1 as shown on the plans.

Contractor shall complete all necessary trenching in order to furnish and install new conduits to allow for future EVCS installations as shown on the plans.

#### **77-1.01B SUBMITTALS**

For each backfill material to be used, submit a report or certificate from an appropriately certified testing laboratory approved by the Engineer verifying that backfill material conforms to the specified characteristics.

#### **77-1.01C PROJECT CONDITIONS**

Arrange construction to produce the shortest practical time that trenches will be open to avoid hazard to other contractors and NCOC users, and to minimize the possibility of trench collapse.

### **77-1.01D TESTING FOR COMPACTION**

The Engineer's chosen testing firm will test compaction at locations determined by the Engineer whether in trenches or at equipment pad excavations. If compaction testing reveals that the required compaction has not been achieved, all rework to achieve the required compaction will be completed by Contractor at Contractor's expense. All retesting of compaction will be completed by the Engineer's testing firm at Contractor's expense.

Where compaction tests indicate a failure to meet the specified compaction in a trench, the Engineer's testing firm will take additional tests every 50-feet in each direction until the extent of the failing area is identified. This additional testing every 50-feet, rework of the entire failed area until the specified compaction has been achieved, and compaction testing after rework to verify compaction shall be at the Contractor's expense.

Relative compaction is defined as the ratio, in percent, of the as-compacted dry density to the laboratory maximum dry density. The laboratory maximum dry density is defined in accordance with ASTM D1557, latest edition. As-compacted dry density will be determined in accordance with ASTM D3017 or D2922, latest edition.

### **77-1.02 MATERIALS**

#### **77-1.02B IMPORTED SAND (TYPE 2)**

If sand is used for trench backfill it shall be imported washed sand and shall be free of clay or organic material and have the following gradation:

<b>Sieve Size</b>	<b>Percent Weight</b>	<b>Passing</b>	<b>by</b>
3/8-inch	100		
No. 4	95 – 100		
No. 30	30-50		
No. 100	2-10		
No. 200	0-5		

Imported sand shall have a sand equivalent not less than 28 per ASTM D 2419.

#### **77-1.02C CLASS 2 AGGREGATE BASE**

Backfill material consisting of Class 2 Aggregate Base in accordance with Standard Specifications Section 26-1.02B, "Class 2 Aggregate Base". Recycled material such as recycled concrete or recycled asphaltic concrete shall not be used.

#### **77-1.02E CEMENT SLURRY**

Slurry cement shall conform to Section 19-3.02E, "Slurry Cement Backfill", of the Standard Specifications.

Slurry cement shall consist of cement, fine aggregate/sand, and sufficient water for workability. It shall be two sack slurry cement (min. 188 lb cement per cubic yard of material). Slurry shall be thoroughly machine-mixed and shall be placed within one hour after initial mixing.

#### **77-1.02H MATERIALS TESTING**

Materials testing shall be completed by an appropriately certified testing laboratory approved by the Engineer at the Contractor's expense. At its discretion, the Engineer may require testing for any material used in the work at the contractor's expense.

Particle size analysis of soils and aggregates will be performed using ASTM D 422 - Standard Test Method for Particle-Size Analysis of Soils.

Determination of sand equivalent value will be performed using ASTM D 2419 - Standard Test Method for Sand Equivalent Value of Soils and Fine Aggregate.

Unified Soil Classification System: References in this Section to soil classification types and standards shall have the meanings and definitions indicated in ASTM D 2487. The Contractor shall be bound by all applicable provisions of said ASTM D 2487 in the interpretation of soil classifications. The testing for chloride, sulfate, resistivity, and pH will be done in accordance with California Test Methods 532 and 643 of the California Department of Transportation.

#### **77-1.02I REFILL FOR FOUNDATION STABILIZATION**

Loose materials at trench bottoms resulting from excavation disturbances should be removed to firm soil. If soft, loose or unstable areas are encountered, these areas should be over-excavated to a firm base or a depth of 2 feet. Refill consists of materials for filling the over-excavation as approved by the Engineer.

#### **77-1.02J WATER FOR COMPACTION**

Water for compaction shall be clean and free of oil, acids, salts, and other deleterious substances. Water shall be supplied by the Contractor at no additional expense to the County. Water shall be drawn from a hydrant meter. Contractor shall make arrangements with the water district to obtain hydrant meter. The Contractor shall coordinate with the Engineer for the use of the water and shall provide all necessary labor and equipment to extract, transport and apply the water for compaction, and shall be responsible for the repair of any damage to the existing facilities which can be attributed to this operation.

#### **77-1.03 CONSTRUCTION**

##### **77-1.03A COMPACTION REQUIREMENTS**

Compaction shall conform to Section 19-5, "Compaction", of the Standard Specifications, and these Special Provisions.

The required relative compaction shall be as shown on the Plans.

##### **77-1.03B MATERIAL REPLACEMENT**

Contractor shall remove and replace any trenching and backfilling material which does not meet the specifications at the Contractor's expense. Trenches must be backfilled on a daily basis and protected during non-working hours. Compaction shall conform to Section 19-5, "Compaction", of the Standard Specifications.

##### **77-1.03C SLOPING, SHEETING, SHORING AND BRACING OF TRENCHES**

Trenches shall have sloping, sheeting, shoring, and bracing conforming to 29CFR Part 1926 Subpart P – Excavations, CAL/OSHA requirements, and the Project Specifications.

##### **77-1.03E TRENCH EXCAVATION**

Excavate the trench to the lines and grades described by the drawings with allowance for conduit thickness, sheeting and shoring if used, and for trench base or special bedding. If the trench is excavated below the required grade, refill any part of the trench excavated below the grade at no additional cost to the County with foundation stabilization material. Place the refilling material over the full width of trench in compacted layers not exceeding 8-inches deep to the established grade with allowance for the pipe base or special bedding and compacted to 95% relative compaction.

##### **77-1.03F LOCATION OF EXCAVATED MATERIAL**

During trench excavation, place the excavated material only within the working area. Do not obstruct parking lot lanes.

Until permanent AC paving can be replaced, the Contractor shall backfill the trench to grade and maintain the subgrade and surface in a condition that is suitable to support and safely carry traffic.

New HMA paving shall be placed within one (1) week after backfilling trench, unless otherwise approved by the Engineer.

#### **77-1.03G LENGTH OF OPEN TRENCH**

For any section of trench that will be left unattended the Contractor shall:

1. Isolate the trench from unauthorized access with rigid barricades and/or temporary fencing and clearly mark and delineate it with warning signs, reflective cones, and warning lights.
2. County will endeavor to ensure traffic does not need to use the eastern parking lot lane adjacent to the generator enclosure while the Contractor is trenching in that area. In the event that County vehicles need to use the parking lot lane while a trench is open, as directed by the Engineer, the Contractor shall plate the trench using trench plates and provide sheeting shoring and bracing to support the trench plates sufficient to carry H-20 traffic loads. Applicable state, county, and municipal traffic safety rules will govern installation and maintenance of trench plates.

#### **77-1.03H FOUNDATION STABILIZATION**

After the required excavation has been completed, the Engineer will inspect the exposed subgrade to determine the need for any additional excavation. It is the intent that additional excavation be conducted in all areas within the influence of the pipeline where unacceptable materials exist at the exposed subgrade. Overexcavation shall include the removal of all such unacceptable materials that exists directly beneath the pipeline to the required trench width and to the depth required. Backfill the trench to subgrade of pipe base with refill material for foundation stabilization. Place the foundation stabilization material over the full width of the trench and compact in layers not exceeding 8-inches deep to the required grade. Foundation stabilization work shall be executed in accordance with a change order. Refill used by the Contractor for convenience will not receive any additional payment.

#### **77-1.03J CEMENT SLURRY BACKFILL**

When cement slurry backfill is utilized, the conduit shall be supported by continuous mounding of imported backfill material. Conduit shall not be supported on wooden or concrete blocks.

#### **77-1.04 PAYMENT**

Full compensation for furnishing all labor, materials, tools, equipment and incidentals for doing all the work involved in all required trenching and backfill is included in the payment for the bid items involved and no additional compensation will be allowed therefor.

## **DIVISION IX TRAFFIC CONTROL DEVICES**

### **SECTION 84-2 TRAFFIC STRIPES AND PAVEMENT MARKINGS**

#### **84-2.01 GENERAL**

The application of pavement markings shall conform to Section 82, "Traffic Stripes and Pavement Markings" of the Standard Specifications, the Plans, and these Special Provisions.

#### **84-2.01C Submittals**

Section 84-2.01C, "Submittals", is amended to read:

For each lot or batch of paint, submit:

1. Certificate of compliance, including the product name, lot or batch number, and manufacture date
2. METS notification letter stating that the material is authorized for use

### 3. SDS

#### **84-2.03 CONSTRUCTION**

##### **84-2.03A General**

Section 84-2.03A, "General", is amended to read:

Pavement markings shall be two coats of 4-in wide white paint

Glass beads are not required.

Lay out markings as shown on the plans. Confirm with Engineer before applying paint.

Paint for pavement marking shall be machine applied.

Pavement markings shall be applied only to a dry surface during a period of favorable weather when the pavement surface is above 50 degrees Fahrenheit.

A completed pavement marking must:

1. Have clean, well-defined edges without running or deformation
2. Be uniform throughout the entire length of each section so that a normal striping machine can superimpose successive coats
3. Be straight

The width of a completed traffic pavement marking must not deviate from the width shown by more than 1/4 inch.

Protect newly placed pavement markings from traffic and other deleterious activities until the paint is thoroughly dry.

#### **84-2.04 PAYMENT**

The lump sum contract price paid for the bid item "Remove Existing Striping and Restripe Bus Parking Spaces" shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals, and for doing all work involved in painting pavement markings, including any necessary layout, cat tracks, dribble lines, traffic control and any sweeping or other surface preparation required, complete in place, as shown on the plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer.

### **SECTION 84-9 EXISTING MARKINGS**

#### **84-9.03B Remove Traffic Stripes and Pavement Markings**

Section 84-9.03B, "Remove Traffic Stripes and Pavement Markings" is Amended to Read:

Existing pavement markings shall be removed where indicated on the plans.

Completely remove pavement markings by methods that do not remove pavement to a depth of more than 1/8 inch.

Submit your proposed method for removing pavement markings at least 7 days before starting the removal work. Allow 2 business days for the review.

Make any area removed by grinding rectangular. Water must not puddle in the ground areas. Fog seal ground areas on asphalt concrete pavement.

Sweep up or vacuum any residue before it can (1) be blown by traffic or wind, (2) migrate across pavement, or (3) enter a drainage facility.

#### **84-9.04 Payment**

The lump sum contract price paid for the bid item "Remove Existing Striping and Restripe Bus Parking Spaces" shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals, and for doing all work involved in removing existing pavement markings including



any grinding or removal of existing pavement markings by other methods, sweeping, vacuuming or other cleanup, and disposal of removed materials, furnishing and installation of fog seal, complete in place, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer.

## **DIVISION X ELECTRICAL WORK**

Electrical work and materials shall conform to Section 86, "General" and Section 87, "Electrical Systems" of the Standard Specifications, the Plans, and these Special Provisions.

The Electrical Specification sections detailing the quality of the work for the bid items are numbered as follows and are provided as Attachment 1:

Section 260010	Basic Electrical Requirements
Section 260060	Power System Study
Section 260519	Building Wire and Cable
Section 260526	Grounding and Bonding
Section 260529	Electrical Hangers and Supports
Section 260531	Conduit
Section 260533	Boxes
Section 260543	Underground Ducts and Structures
Section 260553	Electrical Identification
Section 262413	Switchboards
Section 262816	Overcurrent Protection Devices
Section 270010	Basic Communication Requirements
Section 270528	Communication Pathways
Section 271500	Communication Horizontal Cabling

If possible, all work shall be completed without interruption of power supply to the NCOC. If power supply must be interrupted to complete the work, the contractor shall inform the engineer a minimum of 72 hours in advance so appropriate arrangements can be made.

Full compensation for furnishing all labor, materials, tools, equipment and incidentals for doing all the electrical work involved in the project in accordance with the Standard Specifications, the Plans, and these Special Provisions is included in payment for the relevant bid items and no additional compensation will be allowed therefor.

## **DIVISION XI MATERIALS**

### **SECTION 90 CONCRETE**

All Portland cement concrete shall conform to Section 90, "Concrete" of the Standard Specifications and these Special Provisions.

The maximum allowable holding time before concrete placement shall be 90-minutes from batch plant.

Concrete shall not be placed or finished in the rain. It shall be the contractor's responsibility to schedule construction operations accordingly.

Concrete shall have a 28-day compressive strength of 3,000 psi or greater and have a 4-inch slump unless specified otherwise.

The supplier shall provide certification that any concrete furnished conforms to these specifications.

### **PAYMENT**

Payment to furnish and install all concrete as shown on the plans in accordance Section 90, "Concrete" of the Standard Specifications, the Plans and these Special Provisions shall be considered as included in the prices paid for the various other contract items of work involved and no additional compensation will be allowed therefor.

**90-1.02I CONCRETE IN FREEZE-THAW AREAS**

Construction is in a freeze-thaw area; therefore concrete shall conform to 90-1.02I, "Concrete in Freeze-Thaw Areas".

NOTICE TO BIDDERS:

THE FOLLOWING CONTRACT SECTION IS INCLUDED

AS A SAMPLE

FOR INFORMATION ONLY

AND IS NOT TO BE

COMPLETED WITH BID

COUNTY OF NEVADA  
STATE OF CALIFORNIA

CONTRACT

FOR

**Electric Bus Charging Project  
Nevada County Operations Center (NCOC) Phase-1**

**COUNTY PROJECT NO. 889830**

**California Air Resources Board (CARB) Grant No. G20-NS-001**

**A sub-grant of U.S. Environmental Protection Agency 2019 and 2020 Targeted  
Air Shed Grant Program #TA98T15301-0 with CARB**

June 13, 2023

**(Standard Public Works Contract)**

COUNTY OF NEVADA  
DEPARTMENT OF PUBLIC WORKS

**PERFORMANCE BOND**

(To Accompany Contract)

Bond No. \_\_\_\_\_

**WHEREAS**, the County of Nevada, acting by and through the Department of Public Works, has awarded to Contractor \_\_\_\_\_, hereafter designated as the "Contractor", a contract for the work described as follows:

Electric Bus Charging Project Nevada County Operations Center (NCOC) Phase-1

**AND WHEREAS**, the Contractor is required to furnish a bond in connection with said contract, guaranteeing the faithful performance thereof:

**NOW, THEREFORE**, we the undersigned Contractor and Surety are held firmly bound to the County of Nevada in the sum of

\_\_\_\_\_ dollars (\$ \_\_\_\_\_), to be paid to said County or its certain attorney, its successors and assigns: for which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors or assigns, jointly and severally, firmly by these presents.

**THE CONDITION OF THIS OBLIGATION IS SUCH,**

That if the above bound Contractor, its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the foregoing contract and any alteration thereof made as therein provided, on his or their part to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning, and shall indemnify and save harmless the County of Nevada, its officers and agents, as therein stipulated, then this obligation shall become and be null and void; otherwise it shall be and remain in full force and virtue.

**IN WITNESS WHEREOF**, We have hereunto set our hands and seals on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Surety **(SEAL)**

\_\_\_\_\_  
By

\_\_\_\_\_  
By: Attorney-in-Fact

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

For correspondence or claims relating to this bond, contact the surety at the following address and telephone number:

NOTE: Signatures of those executing for the surety must be properly acknowledged.

**CERTIFICATE OF ACKNOWLEDGEMENT**

State of California, County of Nevada

On this \_\_\_\_\_ day of \_\_\_\_\_ in the year 20 \_\_\_\_ before me \_\_\_\_\_,  
personally appeared \_\_\_\_\_, personally

*Attorney-in-fact*

known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name  
is subscribed to this instrument as the attorney-in-fact of \_\_\_\_\_

and acknowledged to me that he/she subscribed the name of the said company thereto as surety,  
and his/her own name as attorney-in-fact.

(SEAL)

\_\_\_\_\_  
*Notary Public*

COUNTY OF NEVADA  
DEPARTMENT OF PUBLIC WORKS

**PAYMENT BOND**  
(Section 3247, Civil Code)

**WHEREAS**, The County of Nevada, acting by and through the Department of Public Works, hereafter referred to as "Obligee", has awarded to Contractor \_\_\_\_\_, hereafter designated as the "Contractor", a contract for the work described as follows:

Electric Bus Charging Project Nevada County Operations Center (NCOC) Phase-1

**AND WHEREAS**, said Contractor is required to furnish a bond in connection with said contract, to secure the payment of claims of laborers, mechanics, materialmen and other persons as provided by law.

**NOW, THEREFORE**, we the undersigned Contractor and Surety are bound unto the Obligee in the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_), for which payment, we bind ourselves, jointly and severally.

**THE CONDITION OF THIS OBLIGATION IS SUCH,**

That if said Contractor or its subcontractors shall fail to pay any of the persons named in Civil Code Section 3181, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by such claimant, or any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board for the wages of employees of the Contractor and his subcontractors pursuant to Section 18806 of the Revenue and Taxation Code, with respect to such work and labor, that the surety herein will pay for the same in an amount not exceeding the sum specified in this bond, otherwise the above obligation shall be void. In case suit is brought upon this bond, the surety will pay a reasonable attorney's fee to be fixed by the court.

This bond shall inure to the benefit of any of the persons named in Civil Code Section 3181 as to give a right of action to such persons or their assigns in any suit brought upon this bond.

Dated: \_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Surety **(SEAL)**

\_\_\_\_\_  
By

\_\_\_\_\_  
By: Attorney-in-Fact

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

For correspondence or claims relating to this bond, contact the surety at the following address and telephone number:

NOTE: Signatures of those executing for the surety must be properly acknowledged.

## CERTIFICATE OF ACKNOWLEDGEMENT

State of California, County of Nevada

On this \_\_\_\_\_ day of \_\_\_\_\_ in the year 20 \_\_\_\_ before me \_\_\_\_\_,  
personally appeared \_\_\_\_\_, personally

*Attorney-in-fact*

known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument as the attorney-in-fact of \_\_\_\_\_ and acknowledged to me that he/she subscribed the name of the said company thereto as surety, and his/her own name as attorney-in-fact.

(SEAL)

\_\_\_\_\_  
*Notary Public*



**COUNTY OF NEVADA  
STATE OF CALIFORNIA**

**CONTRACT**

THIS CONTRACT, made this \_\_ day of \_\_\_\_\_ 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. Instructions 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 Administrator 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 Administrator 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.

**Special Provisions**

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: **Electric Bus Charging Project Nevada County Operations Center (NCOC) Phase-1**, which shall be constructed in accordance with this Contract, the Invitation to Bid, the Instructions 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 **7 days** after the Contractor is instructed in writing by County to proceed with the work. Said work shall be diligently prosecuted to completion. **Electric Bus Charging Project Nevada County Operations Center (NCOC) Phase-1 work shall be completed and ready for acceptance within 40 working 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) the Contractor shall pay to the County of Nevada the sum of **\$3,200** per day, for each and every calendar days' delay in finishing the work in excess of the number of working days prescribed above. 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:

- a. 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;
- b. 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.
- c. 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.
- d. 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
- e. 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 in accordance with paragraphs 2(a) through 2(d) above.

### **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 the Standard Specifications and 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**

### **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 **7 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 **5 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 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 bids submitted by Contractor.

A component in one Contract part applies as if appearing in each. The parts are complementary and describe and provide for a complete work.

In the case of ambiguity or conflict, the documents shall be given the following priority:

1. Governing ranking of Contract parts in descending order is:
  - 1.1. Contract
  - 1.2. Instructions to Bidders, including addendums
  - 1.3. Project Special Provisions
  - 1.4. Project plans
  - 1.5. Revised standard specifications
  - 1.6. Standard specifications
  - 1.7. Revised standard plans
  - 1.8. Standard plans
  - 1.9. Supplemental project information
  - 1.10. Nevada County Road Standards and Nevada County Standard Road Drawings
2. Written numbers and notes on a drawing govern over graphics
3. Detail drawing governs over a general drawing
4. Specific specification governs over a general specification
5. Specification in a section governs over a specification referenced by that section

If a discrepancy is found or confusion arises, submit an RFI.

## **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.

## **ARTICLE XII: PAYMENT 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 payment 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.

### **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. Comprehensive Business or Commercial Automobile Liability Coverage (bodily injury liability, property damage liability, uninsured motorist protection and including non-owned and hired automobile liability): **\$2,000,000**.

Nevada County shall be named as additional insured on all insurance policies. Contractor shall provide proof of insurance required in this contract evidenced by certificates of insurance and endorsements.

### **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 Administrator.

### **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 firefighting equipment at all times. Temporary provisions shall be made by the Contractor to insure 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 equipment proposed to be incorporated in the work, or of materials or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the work. The cost of all inspections, tests and approvals in addition to the above which are required by the contract documents shall be paid by County (unless otherwise specified). Contractor must utilize materials and equipment which are available for inspection at the plant or at the point of distribution in California in the case of foreign materials or equipment.

#### **Other Inspections and Tests**

All inspections, tests or acceptances other than those required by laws and regulations of any public body having jurisdiction shall be performed by organizations acceptable to County.

#### **General Requirements**

All materials, equipment, installation, and workmanship included in this contract, if so required by County, shall be tested and inspected to prove compliance with the contract requirements. Installed leakage tests and other piping tests shall be as specified in the technical provisions of these specifications.

No tests specified herein shall be applied until the item to be tested has been inspected and approval given for the application of such test. Contractor shall give County timely notice of readiness of the work for all required inspections, tests or approvals.

Tests and inspections shall include:

1. The delivery acceptance test and inspections.
2. The installed tests and inspections of items as installed.

Tests and inspections, unless otherwise specified or accepted, shall be in accordance with the recognized standards of the industry.

The form of evidence of satisfactory fulfillment of delivery acceptance test and of installed test and inspection requirements shall be, at the discretion of County, either by tests and inspections carried out in County's presence or by certificates or reports of tests and inspections carried out by approved persons or organizations. The Contractor shall provide and use forms which include all test information and are acceptable in content to County.

### **Certificates of Compliance**

A Certificate of Compliance shall be furnished prior to the use of any materials for which the specifications or the Special Provisions require that such a certificate be furnished. In addition, when so authorized in the specifications or in the Special Provisions, the County may permit the use of certain materials or assemblies prior to sampling and testing if accompanied by a Certificate of Compliance. The certificate shall be signed by the manufacturer of the material or the manufacturer of assembled materials and shall state that the materials involved comply in all respects with the requirements of the specifications. A Certificate of Compliance shall be furnished with each lot of material delivered to the work and the lot so certified shall be clearly identified in the certificate.

All materials used on the basis of a Certificate of Compliance may be sampled and tested at any time. The fact that material is used on the basis of a Certificate of Compliance shall not relieve the Contractor of responsibility for incorporating material in the work which conforms to the requirements of the plans and specifications and any such material not conforming to such requirements will be subject to rejection whether in place or not.

County reserves the right to refuse to permit the use of material on the basis of a Certificate of Compliance.

The form of the Certificate of Compliance and its disposition shall be as directed by County.

### **Delivery Acceptance Tests and Inspection**

The delivery acceptance tests and inspection shall be at the Contractor's expense for any materials or equipment specified herein and shall include the following:

1. Test of items during the process of manufacture and/or on completion of manufacture, comprising material tests, hydraulic pressure tests, electric tests, performance and operating tests and inspections in accordance with the relevant standards of the industry and more particularly as detailed in individual clauses of these specifications to satisfy County that the items tested and inspected comply with the requirements of this contract. Tests required, other than those specified, will be in accordance with the contract specifications.
2. Inspection of all items delivered at the site in order that County may be satisfied that such items are of the specified quality and workmanship and are in good order and condition at the time of delivery.

### **Installed Tests and Inspection**

All equipment shall be tested by the Contractor to the satisfaction of County before any facility is put into operation. Tests shall be as specified herein and shall be made to determine whether the equipment has been properly assembled, aligned, adjusted and connected. Any changes,

adjustments or replacements required to make the equipment operate as specified shall be carried out by the Contractor as part of the work.

At least 30 days before the time allowed in the construction schedule for commencing testing and start up procedures, the Contractor shall submit to County, details of the procedures Contractor proposes to adopt for testing and startup of all mechanical and electrical equipment to be operated singly and together, excepting when such procedures have been covered in the specifications. Such tests shall be conducted using potable water where water is required for such testing. The water required for such tests shall be provided by the Contractor.

During the testing of equipment, the Contractor shall make available experienced factory trained representatives of the manufacturers of all the various pieces of equipment, or other qualified persons who shall instruct County's personnel in the operation and care thereof. Instruction shall include step-by-step troubleshooting procedures with all necessary test equipment. All manufacturer's instructions shall be provided in writing.

If, under test, any portion of the work shall fail to fulfill the contract requirements and is altered, renewed or replaced, tests on that portion when so altered, removed or replace, together with all other portions of the work as are affected thereby, shall, if so required by County, be repeated within reasonable time and in accordance with the specified conditions, and the Contractor shall pay to County all reasonable expenses incurred by County as a result of the carrying out of such tests.

Where, in the case of an otherwise satisfactory installed test, any doubt, dispute or difference should arise between County and the Contractor regarding the test results or methods or equipment using in the carrying out by the Contractor of such test, then County may order the test to be repeated. If the repeat test, using such modified methods or equipment as County may require, substantially confirms the previous test then costs in connection with the repeat test will be paid by County, otherwise the costs shall be borne by the Contractor. Where the results of any installed test fail to comply with the contract requirements for such test then such repeat tests as may be necessary to achieve the contract requirements shall be made by the Contractor at Contractor's own expense.

### **Quality Control**

County will perform testing for the following as the County deems necessary:

1. Soils compaction control
2. Cast-in-place concrete control
3. Aggregate base rock
4. Portland Cement concrete
5. Asphalt concrete
6. Other materials and work incorporated in project

The Contractor shall pay for testing of those samples which fail to meet acceptable standards.

The Contractor shall provide services of a qualified testing laboratory to perform testing for all other work including but not limited to:

1. Concrete mix design
2. Asphalt concrete mix design

The testing laboratory selected by the Contractor is subject to County's approval. The laboratory shall cooperate with Contractor and County and provide qualified personnel promptly on notice, perform specified inspections, sampling and testing of materials as needed to comply with specified standards, and ascertain compliance with requirements of contract documents.

### **Work Requiring Testing**

If any work (including the work of others) that is required by the Contract Documents to be inspected, tested or accepted is covered without written concurrence of County, it must, if requested by County, be uncovered for observation. Such uncovering shall be at Contractor's

expense unless Contractor has given County timely notice of Contractor's intention to cover the same and County has not acted with reasonable promptness in response to such notice.

### **Contractor's Obligation**

Neither observations by County nor inspections, tests or approvals by others shall relieve Contractor from Contractor's obligations to perform the work in accordance with the contract documents.

### **Uncovering Work Covered Contrary to County's Request**

If any work is covered contrary to the written instructions of County or Code or contract requirements, it must, if requested by County, be uncovered for County's observation and replaced at Contractor's expense.

### **Uncovering Work for Inspection or Testing**

In addition to the provisions above regarding work requiring testing, if County considers it necessary or advisable that covered work be observed by County or inspected or tested by others, Contractor, at County's request, shall uncover, expose or otherwise make available for observation, inspection or testing as County may require, that portion of the work in question, furnishing all necessary labor, material and equipment. If it is found that such work is defective, Contractor shall bear all direct, indirect and consequential costs of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction (including but not limited to fees and charges of engineers, architects, attorneys and other professionals), 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, may make a claim therefor as provided in this contract. If, however, such work is not found to be defective, Contractor shall be allowed an increase in the contract price or an extension of the contract time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction; and, if the parties are unable to agree as to the amount or extent thereof, Contractor may make a claim therefor as provided for in this contract.

## **ARTICLE XX: SUSPENSION OF WORK AND TERMINATION**

### **County May Suspend Work**

County may, at any time and without cause, suspend the work or any portion thereof for a period of not more than ninety days by notice in writing to Contractor. As soon as possible, County will fix the date on which work will be resumed. Contractor shall resume the work on the date so fixed. If Contractor believes that such suspension justifies an increase in the contract price or an extension of the contract time and County and Contractor are unable to agree to the amount or extent thereof, Contractor may make a claim therefor as provided herein.

### **County May Terminate**

Except as limited by law or regulation, County may terminate upon the occurrence of any one or more of the following events:

1. If Contractor commences a voluntary case under any chapter of the Bankruptcy Code (Title 11, United States Code), as now or hereafter in effect, or if Contractor takes any equivalent or similar action by filing a petition or otherwise under any other federal or state law in effect at such time relating to the bankruptcy or insolvency;
2. If petition is filed against Contractor under any chapter of the Bankruptcy Code as now or hereafter in effect at the time of filing, or if a petition is filed seeking any such equivalent or similar relief against Contractor under any other federal or state law in effect at the time relating to bankruptcy or insolvency;
3. If Contractor makes a general assignment for the benefit of creditors;
4. If a trustee, receiver, custodian or agent of Contractor is appointed under applicable law or under contract, whose appointment or authority to take charge of property of Contractor is for the purpose of enforcing a lien against such property or for the purpose of general administration of such property for the benefit of Contractor's creditors;



5. If Contractor admits in writing an inability to pay its debts generally as they become due;
6. If Contractor persistently fails to perform the work in accordance with the contract documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule established herein as revised from time to time or fails to make prompt payment to subcontractors or for materials or labor or persistently disregards laws, ordinances or instructions of the County);
7. If Contractor disregards laws or regulations of any public body having jurisdiction;
8. If Contractor disregards the authority of County or its agents; or
9. If Contractor otherwise violates in any substantial way any provisions of the contract documents;

County may, after giving Contractor (and the surety, if there be one) seven days' written notice and to the extent permitted by laws and regulations, terminate the services of Contractor, exclude Contractor from the site and take possession of the work and of all Contractor's tools, appliances, construction equipment and machinery at the site and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion), incorporate in the work all materials and equipment stored at the site or for which County has paid Contractor but which are stored elsewhere, and finish the work as County may deem expedient. In such case Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract price exceeds the direct, indirect and consequential costs of completing the work (including but not limited to fees and charges of engineers, architects, attorneys and other professionals and court costs) such excess will be paid to Contractor. If such costs exceed such unpaid balance, Contractor shall pay the difference to County. Such costs incurred by County will be approved as to reasonableness by County and incorporated in a change order, but when exercising any rights or remedies under this paragraph County shall not be required to obtain the lowest price for the work performed. Where Contractor's services have been so terminated by County, the termination will not affect any rights or remedies of County against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by County will not release Contractor from liability.

#### **County May Abandon**

Upon written notice to Contractor County may, without cause and without prejudice to any other right or remedy, elect to abandon the work and terminate the agreement. Contractor shall stop work as specified in said notice, terminate all subcontracts, deliver all materials already paid for and secure the site. In such case, Contractor shall be paid for all work executed and any actual expense sustained. No lost profit for work not yet undertaken shall be due to Contractor.

#### **Contractor May Stop Work or Terminate**

If, through no act or fault of Contractor, the work is suspended for a period of more than ninety days by County or under an order of court or other public authority, or County fails to act on any application for payment within thirty days after it is submitted, or County fails for thirty days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days' written notice to County, terminate the agreement and recover from County payment for all work executed and any expense sustained. In addition and in lieu of terminating the agreement, if County has failed to act on an application for payment or County has failed to make any payment as aforesaid, Contractor may upon seven days' written notice to County stop the work until payment of all amounts then due. The provisions of this paragraph shall not relieve Contractor of the obligations to carry on the work in accordance with the progress schedule and without delay during disputes and disagreements with County.

## **ARTICLE XXI COUNTY'S AGENT'S STATUS DURING CONSTRUCTION**

### **County's Representative**

County may appoint representatives during the construction period. The duties and responsibilities and the limitations of authority of such agents during construction are set forth herein and shall not be extended without written consent of County.

### **Agent's Authority**

County may delegate authority to an employee or agent, including an engineer or an architect, to determine the amount, quality, acceptability and fitness of the several kinds of work, material and equipment which are to be paid for under the contract; to decide for the County all questions relative to the true construction, meaning and intent of the contract documents; to decide all questions relative to the classification and measurements of quantities and materials and the fulfillment of this contract, and to reject or condemn all work or material which does not conform to the terms of this contract. The representative's decision in all matters is the decision of County and shall be final and binding on Contractor.

### **Replacement of Representative**

County reserves the right to terminate the employment of the representative at any time.

### **Visits to Site**

Where a representative represents County, said representative will make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed work and to determine, in general, if the work is proceeding in accordance with the contract documents. However, Contractor must supervise the work and cannot rely on said representative or County as they will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work. The representative's efforts will be directed toward providing for County a greater degree of confidence that the completed work will conform to the contract documents. On the basis of such visits and on-site observations, the representative will keep County informed of the progress and adequacy of the work.

### **Observation of Work**

If County and the representative agree, the representative will observe the performance of the work. The duties, responsibilities and limitations of authority of the representative in observing the work will be as provided herein. If County designates another agent to represent County at the site who is not the representative's agent or employee, the duties, responsibilities and limitations of authority of such other person will be as provided in supplementary conditions.

### **Clarifications and Interpretations**

The representative may be appointed to issue (with reasonable promptness) such written clarifications or interpretations of the requirements of the contract documents (in the form of drawings or otherwise) as the representative may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the contract documents. If Contractor believes that a written clarification or interpretation justifies an increase in the contract price or an extension of the contract time and the parties are unable to agree to the amount or extent thereof, Contractor may make a claim therefor as provided in the contract. Said claim shall be made to County unless a representative has been selected to provide such clarifications or interpretations.

### **Authorized Variations in Work**

If a representative is appointed, such representative may authorize minor variations in the work from the requirements of the contract documents which do not involve an adjustment in the contract price or the contract time and are consistent with the overall intent of the contract documents. These may be accomplished by a field order and will be binding on County, and also on Contractor who shall perform the work involved promptly. If Contractor believes that a field order justifies an increase in the contract price or an extension of the contract time and County and Contractor are unable to agree as to the amount or extent thereof, Contractor may make a claim therefor as provided in this Contract.

### **Rejecting Defective Work**

If a representative is appointed, such representative will have authority to disapprove or reject work which the representative believes to be defective, and will also have authority to require special

inspection or testing of the work whether or not the work is fabricated, installed or completed. Any decision made by said representative in disapproving or rejecting work shall be binding on Contractor.

### **Determinations for Unit Prices**

If a representative is appointed, such representative will determine the actual quantities and classifications of unit price work performed by Contractor. The representative will review with the Contractor the representative's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an application for payment or otherwise). The representative's written decisions thereon will be final and binding upon Contractor.

### **Claims and Disputes**

For purposes of this paragraph, "claim" shall be defined as set forth in Public Contracts Code Section 20104(b)(2). Claims shall be presented in writing and include the documents necessary to substantiate the claim. Claims must be filed with the designated County representative no later than thirty (30) days after the occurrence of the event giving rise thereto or denial of the change order, whichever occurs last. The form of said claims shall be the same as is required by Government Code Sections 910 and 910.2.

If the claim is under \$50,000, County shall respond in writing to Contractor within 45 days of receipt of Contractor's claim or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses or claims the County may have against the Contractor. If additional information is thereafter required, it shall be requested and provided pursuant to Public Contract Code Section 20104.2, upon mutual agreement of the County and Contractor. The County's written response to the claim, as further documented, shall be submitted to Contractor within 15 days after receipt of the further documentation or within a period of time no greater than that taken by Contractor in producing the additional information, whichever is greater.

For claims over \$50,000 and less than or equal to \$375,000, County shall respond in writing to all written claims within 60 days of receipt of the claim, or may request, in writing within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses or claims the County may have against Contractor. If additional information is thereafter required, it shall be requested and provided pursuant to Public Contract Code Section 20104.2, upon mutual agreement of County and Contractor. The County's written response to the claim, as further documented, shall be submitted to Contractor within 30 days after receipt of the further documentation, or within a period of time no greater than that taken by Contractor in producing the additional information or requested documentation, whichever is greater.

If Contractor disputes County's written response, or County fails to respond within the time prescribed above, Contractor may so notify County, in writing, either within 15 days of receipt of County's response or within 15 days of County's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer with such County representatives as the County Administrator or the Board of Supervisors directs for settlement of the issues in dispute. Upon such demand, County shall schedule a meet and confer conference within 30 days for settlement of the dispute.

Following the meet and confer conference, if the claim or any portion remains in dispute, Contractor may file a claim with the Board of Supervisors pursuant to Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code. Pursuant to authority granted by Government Code Section 930.2, all claims filed with the Board of Supervisors pursuant to the Government Code shall be filed within 90 days of the denial of the original claim by the County representative. The running of the period of time within which a claim under the Government Code must be filed shall be tolled by any period of time utilized by the meet and confer conference. Any lawsuit which Contractor intends to bring with respect to any claim filed pursuant to the Government Code which claim has been denied by County must be commenced not later than six months after the recording of the notice of completion or not later than six months after the date final payment is deposited in the mail or

personally delivered, whichever date comes first. If a civil action is filed, the mediation provisions set forth in Public Contract Code Section 20104.4 shall apply unless waived by mutual stipulation of County and Contractor or unless County elects to resolve the dispute pursuant to Public Contract Code Section 10240 et seq.

Effective January 1, 2017 Public Contract Code §9204, as enacted by AB 626, establishes a claim resolution process required for public works projects. In the event of any conflict between the provisions of Article XXI and Public Contract Code §9204, the provisions of the Public Contract Code shall prevail. The entire section can be found at the following link:

[https://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=PCC&division=2.&title=&part=1.&chapter=9.&article](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PCC&division=2.&title=&part=1.&chapter=9.&article)

For every claim that Contractor makes, it shall provide the following documentation upon request of County as a condition precedent to consideration of the claim: Contractor's bidding calculations forms, cost estimates, time sheets, trend reports, job cost analysis records, labor records, as-built documents, any other records used by Contractor in arriving at its bid price, and any other documents or records kept by Contractor during the course of construction. In the event that claims are made, Contractor agrees that County shall have the right to conduct a complete audit of the books and records of Contractor relating to this project and any books and records relating to overhead, profit or general office expenses charged to this project.

### **Representative's Decision**

Where a representative is appointed, the rendering of a decision by the representative with respect to any such claim, dispute or other matter (except any which have been waived by the making or acceptance of final payment) will be a condition precedent to any exercise by County or Contractor of such rights or remedies as either may otherwise have under the contract documents or by laws or regulations in respect of any such claim, dispute or other matter.

### **Limitations on Representative's Responsibilities**

Neither the County's representative's authority to act nor any decision made by the representative in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of the representative or County to Contractor, any subcontractor, any supplier, or any other person or organization performing any of the work, or to any surety for any of them.

### **Construction Methods and Safety**

Notwithstanding any references to laws and regulations, rules, codes or standards in the contract documents, the representative and County will not be responsible for Contractor's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, and the representative and County will not be responsible for Contractor's failure to perform or furnish the work in accordance with the contract documents.

### **Acts and Omissions of Contractor**

Neither the County nor its representatives will be responsible for the acts or omissions of Contractor or of any subcontractor, any supplier, or any other person or organization performing or furnishing any of the work.

## **ARTICLE XXII: PARTIAL COMPLETION**

### **Partial Completion (Completion of a Portion of the Work)**

Use by County of any finished part of the work, which has specifically been identified in the contract documents, or which County and Contractor agree constitutes a separately functioning process or facility that can be used by County without significant interference with Contractor's performance of the remainder of the work, may be accomplished prior to completion of all the work subject to the following:

1. County at any time may request Contractor in writing to permit County to use any such part of the work which County believes to be ready for its intended use and substantially complete. If Contractor agrees, Contractor will certify to County that said part of the work is substantially complete and request County to issue a certificate of substantial completion for that part of the work. Contractor at any time may notify County in writing that Contractor considers any such part of the work ready for its intended use and substantially complete and request County to issue a certificate of substantial completion for that part of the work. Within a reasonable time after either such request, County and Contractor shall make an inspection of that part of the work to determine its status of completion. If County does not consider that part of the work to be substantially complete, County will notify Contractor in writing giving the reasons therefor. If County considers that part of the work to be substantially complete, County will deliver to Contractor a written recommendation as to the division of responsibilities pending final payment between County and Contractor for the entire work with respect to security, operation, safety, maintenance, heat, utilities, insurance and warranties. Unless Contractor disagrees in writing and so informs County promptly, County's aforesaid recommendation will be binding on Contractor until final payment for the entire work.
2. County may at any time request Contractor in writing to permit County to take over operation of any such part of the work although it is not substantially complete. A copy of such request will be sent to Contractor and within a reasonable time thereafter County and Contractor shall make an inspection of that part of the work to determine its status of completion and will prepare a list of the items remaining to be completed or corrected thereon before final payment. If Contractor does not object in writing to County that such part of the work is not ready for separate operation by County, County will finalize the list of items to be completed or corrected and will deliver such list to Contractor together with a written recommendation as to the division of responsibilities pending final payment between County and Contractor with respect to security, operation, safety, maintenance, utilities, insurance, warranties and guarantees for that part of the work which will become binding upon County and Contractor at the time when County takes over such operation (unless they shall have otherwise agreed in writing). During such operation and prior to substantial completion of such part of the work, County shall allow Contractor reasonable access to complete or correct items on said list and to complete other related work.
3. No occupancy or separate operation of part of the work will be accomplished prior to the insurers who are then providing the property insurance having acknowledged notice thereof and in writing effecting the changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policies, but the property insurance shall not be canceled or lapse on account of any such partial use or occupancy. Each party shall be responsible for notifying its own insurer.

## **ARTICLE XXIII: ARBITRATION**

### **Arbitration**

Where the total of all claims filed by Contractor are under \$375,000, County shall have the option of electing arbitration pursuant to Public Contract Code Sections 10240, et seq. If County does so elect, the mediation provisions of Public Contract Code Section 20104.4 shall not apply pursuant to Public Contract Code Section 20104(a)(2). If County does not elect such arbitration pursuant to Public Contract Code Sections 10240 et seq., the provisions of Public Contract Code Section 20104.4 shall apply.

Where the total of all claims filed by Contractor are above \$375,000, the arbitration provisions of this contract are voluntary. Neither County nor Contractor shall be required to enter into mediation or arbitration for amounts above \$375,000. Written consent of both parties to mediate or arbitrate

such claims shall be a prerequisite to such mediation or arbitration. If the parties agree to arbitrate claims above \$375,000, the provisions of Public Contract Code Sections 10240, et seq. shall be utilized.

### **Time to Request Arbitration**

No request for arbitration of any claim, dispute or other matter that is required to be referred to County initially for decision will be made until the earlier of (a) the date on which County has rendered a decision or (b) the tenth day after Contractor has presented its evidence to County if a written decision has not been rendered by County before that date. Unless otherwise required by law, no request for arbitration of any such claim, dispute or other matter will be made later than thirty days after the date on which County has rendered a written decision. Notice of the request for arbitration will be in writing to the other party.

## **ARTICLE XXIV: LABOR AND EMPLOYMENT**

### **Worker's Compensation Certification**

By my signature hereunder, as Contractor, I certify that I am aware of the provisions of Section 3700 of the Labor Code 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.

### **Prevailing Wage Rates**

In accordance with the provisions of Section 1770 and 1773 of the Labor Code, the County of Nevada has determined that prevailing wage rates are applicable to the work to be done. The Contractor shall post a copy of the wage rates on the job site.

The general prevailing wage rates determined by the Director of Industrial Relations, for the county or counties in which the work is to be done, are available from the California Department of Industrial Relations' Internet website at <http://www.dir.ca.gov> . These wage rates are not included in the Bid Form and contract for the project. Changes, if any, to the general prevailing wage rates will be available at the same location.

Pursuant to California Labor Code Section 1775, Contractor shall forfeit Fifty Dollars (\$50.00) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates for such work or craft, and said amounts shall be distributed pursuant to the requirements of said Section 1775. Any employee whose type of work is not covered by any of the classified wage rates shall be paid not less than the rate of wage listed for the classification which most nearly corresponds to the type of work to be performed.

### **Collective Bargaining Agreements**

Pursuant to California Labor Code Section 1773.8, Contractor shall pay travel and subsistence payments to all workers needed to execute the work as such travel and subsistence payments are defined in the applicable collective bargaining agreements filed in accordance with Section 1773.8 of the Labor Code.

### **Payroll Records**

Contractor shall be responsible for keeping accurate payroll records as required by California Labor Code Section 1776. Contractor is aware that a penalty of twenty-five dollars (\$25.00) per day or portion thereof for each worker may be assessed for noncompliance with said section. Contractor shall forward to County a certified copy of each payroll record within ten days after close of each payroll period. Such certification shall include a statement that payroll is correct and complete and complies with prevailing wage requirements.

If by the 15th of the month, the Contractor has not submitted satisfactory payrolls for all work performed during the monthly period ending on or before the 1st of that month, County will retain an amount equal to 10 percent of the estimated value of the work performed during the month from the next monthly estimate, except that such retention shall not exceed \$10,000. Retentions for

failure to submit satisfactory payrolls shall be additional to all other retentions provided for in the contract. The retention for failure to submit payrolls for any monthly period will be released for payment on the monthly estimate for partial payments next following the date that all the satisfactory payrolls for which the retention was made are submitted.

The Contractor and each subcontractor shall preserve their payroll records for a period of three years from the date of completion of the contract.

#### **Limitations on Hours Worked**

Eight hours constitutes a day's work and workers shall be limited to working 8 hours during any one calendar day and 40 hours during any one calendar week. Contractor and all subcontractors shall keep an accurate record of hours worked by each worker for each calendar day and each calendar week which record shall be available for inspection during business hours. Contractor shall, pursuant to California Labor Code Section 1813, forfeit twenty-five dollars (\$25) for each day for each worker where such worker is required or permitted to work more than 8 hours in any one day and 40 hours in any one week in violation of the provisions of the Labor Code. No overtime shall be authorized unless prior written approval of County is obtained permitting such overtime. If such overtime work is authorized by County, Contractor shall compensate each worker required to work overtime at the rate of one and one-half (1-1/2) times the basic rate of pay. All costs for overtime inspection, except those occurring as a result of overtime and shift work established as a regular procedure, shall be paid by the Contractor. Overtime inspection shall include inspection required during holidays, Saturdays, Sundays, and any weekday between the hours of 5:00 p.m. and 7:00 a.m. Such costs will include but will not necessarily be limited to engineering, inspection, general supervision and other overhead expenses which are directly chargeable to the overtime work. All such charges shall be deducted by County from payments due the Contractor.

#### **Equal Employment Opportunity and Nondiscrimination**

During the performance of this contract, the contractor agrees to abide by all provisions of Section 1735 of the California Labor Code, as amended, regarding nondiscrimination practices.

#### **Employment of Apprentice Labor**

Reference is hereby made to Section 1777.5 of the Labor Code of the State of California, which regulations shall govern the employment of apprentices on the work.

#### **Preference for Resident Labor**

In the employment of labor for doing the work, the Contractor shall give preference to qualified persons residing within the general area of the work.

#### **Incompetent Workers**

If at any time any worker employed by Contractor or any of the subcontractors shall be declared by County to be incompetent or unfaithful in executing the work, the Contractor, on receiving written notice, shall forthwith initiate appropriate action to dismiss such person.

#### **Labor Class Substitutions**

If Contractor substitutes a labor classification or provides a new classification which results in a reduction in the contract price, County's execution of a change order evidencing said reduction in price shall in no way be construed, either express or implied, as consent to the use of said labor classification in the performance of any work on the project.

### **ARTICLE XXV: ASSIGNMENT**

No assignment by a party hereto of any rights under or interests in the contract documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the contract documents.

## **ARTICLE XXVI: CONFLICT OF INTEREST 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.

## **ARTICLE XXVII: WAIVER OF RIGHTS**

No action or lack of action on the part of County at any time to exercise any right or remedy conferred upon it under this contract shall be deemed to be a waiver on the part of County of any of County's rights or remedies.

## **ARTICLE XXVIII: SUCCESSORS IN INTEREST**

County and Contractor each bind themselves, their partners, successors, assigns and legal representatives to the other party hereto, their partners, successors, assigns and legal representatives in respect to all covenants, agreements, and obligations contained in the contract documents.

## **ARTICLE XXIX: NOTICE**

### **Giving Notice**

Whenever any provision of the contract documents requires the giving of written notice, it will be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent registered or certified mail, postage prepaid, to the last business address known to the giver of the notice. The business addresses of Contractor given in the Bid Form and Contractor's office at the site of the work are hereby designated as the places to which all notices, letters, and other communication to Contractor will be delivered. However, County or Contractor may change their addresses at any time by an instrument in writing delivered to the other.

### **Joint Venture Contractor**

In the event the Contractor is a joint venture of two or more Contractors, all grants, covenants, provisos and claims, rights, powers, privileges and liabilities of the contract shall be construed and held to be several as well as joint; any notice, order, direction, request or other communication required to be or that may be given by County to the Contractor under this agreement shall be well and sufficiently given to all persons being the Contractor if given to any one or more of such persons; any notice, request or other communication given by any one of such persons to County under this agreement shall be deemed to have been given by and shall bind all persons being the Contractor.

## **ARTICLE XXX: VENUE AND JURISDICTION**

This contract shall be construed in accordance with the laws of the State of California and the parties agree that venue shall be in Nevada County, California.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement on the date first written, above. One counterpart each has been delivered to County, Contractor, and the Sureties. All portions of the contract documents have been signed or identified by County and Contractor.

COUNTY OF NEVADA



ATTEST:

\_\_\_\_\_  
Clerk of the Board

By: \_\_\_\_\_  
Chair, Board of Supervisors

CONTRACTOR

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Licensed in accordance with an act providing for the  
registration of Contractors

License Number: \_\_\_\_\_

Fed. Tax ID No: \_\_\_\_\_

Telephone No: \_\_\_\_\_