

Project Manual

GENERAL BUILDING JOB ORDER CONTRACT

Contract #'s 22-J-02, Class B
22-J-03
22-J-04

The County of Fresno Department of Public Works and Planning

2220 Tulare St., 6th Floor
Fresno, California 93721

B i d D o c u m e n t s

Pre-bid Conference: Tuesday, March 21, 2023, 10:00 a.m.

Bid Date: Thursday, April 13, 2023, 1400 hours and 00 seconds

Budget / Account – Various Funding Orgs



Development Services & Capital Projects Division

Department of Public Works & Planning

Contract: 22-J-02
22-J-03
22-J-04

Cover Sheet
00 00 10-1

**The County of Fresno
Department of Public Works and Planning**

JOB ORDER CONTRACT

Contract #22-J-02, Class B
Contract #22-J-03, Class B
Contract #22-J-04, Class B

Adopted by the Fresno County Board of Supervisors, _____, 2023

Sal Quintero, Chairman	3 rd District
Nathan Magsig, Vice Chairman	5 th District
Brian Pacheco	1 st District
Steve Brandau	2 th District
Buddy Mendes	4 th District

Paul Nerland, County Administrative Officer

Steven White, Director
Department of Public Works and Planning



3.23.23
Date Signed

Capital Projects: _____

Davidson

Noel Roger Davidson, #C27818
License Renewal 10/31/23

Fresno County Department of Public Works and Planning – Capital Projects
2220 Tulare Street, 8th Floor
Fresno, CA 93721-2104

Consultant:

The Gordian Group
30 Patewood Dr., Suite 350
Greenville, SC 29615

Contract No.: #22-J-02
22-J-03
22-J-04

Signature Page
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JOB ORDER CONTRACTS

The County of Fresno
Department of Public Works & Planning
2220 Tulare St., 6th FL
Fresno, CA 93721

GENERAL BUILDING JOB ORDER CONTRACT

Contract #22-J-02, Class B
22-J-03
22-J-04

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***Sections 00 21 13 through 00 45 46 included in Bid Book**

Refer to the JOB ORDER CONTRACT CONSTRUCTION TASK CATALOG® and JOB ORDER CONTRACT TECHNICAL SPECIFICATIONS, DIVISION 01 – DIVISION 41 provided in electronic format.

END OF SECTION

1 **BOARD OF SUPERVISORS COUNTY OF FRESNO STATE OF CALIFORNIA**

2
3 **NOTICE TO BIDDERS**

4
5 Sealed proposals will be received at
6 <https://www.bidexpress.com/businesses/36473/home>, and at the Fresno County
7 Department of Public Works and Planning, Office of the Design Engineer, Seventh
8 Floor, Fresno County Plaza Building, 2220 Tulare Street, Fresno, CA 93721 until

9
10 **2:00 P.M., (1400 hours and 00 seconds)**
11 **Thursday, April 13, 2023**

12
13 at which time the bidding will be closed.

14
15
16 **If you have any questions about bid submission, please contact us at**
17 **DesignServices@fresnocountyca.gov or call (559) 600-4241.**

18
19 Promptly following the closing of the bidding all timely submitted bids will be publicly
20 opened and viewable via a livestream (the link for which will be posted at
21 <http://www.co.fresno.ca.us/planholders>), for construction in accordance with the
22 specifications therefor, to which special reference is made as follows:

23
24 **GENERAL BUILDING JOB ORDER CONTRACT**

25
26 **Contract Numbers.: 22-J-02, Class B**
27 **22-J-03, Class B**
28 **22-J-04, Class B**

29
30 A Job Order Contract is an indefinite quantity contract pursuant to which the Contractor
31 will perform an ongoing series of individual projects at different locations throughout
32 the County of Fresno. The bid documents include a Construction Task Catalog®
33 containing construction tasks with preset Unit Prices. All Unit Prices are based on local
34 labor prevailing wages, material and equipment prices and are for the direct cost of
35 construction.

36
37 **A MANDATORY pre-bid conference will be held at 10:00 a.m., on Tuesday,**
38 **March 21, 2023 for the purpose of discussing the Job Order Contract concept,**
39 **documents, bid considerations and to discuss Job Order Contracting from a**
40 **contractor's viewpoint. The MANDATORY pre-bid conference will be held online**
41 **(the link for which will be posted at <http://www.co.fresno.ca.us/planholders>).**

42
43 **Prospective bidders whose representative(s) attend the MANDATORY pre-bid**
44 **conference will receive the electronic link to the official specification books, the**
45 **Construction Task Catalog® and Technical Specifications.**

46
47 Bidders will bid three sets of Adjustment Factors to be applied to the Unit Prices. One
48 set of Adjustment Factors for County/State-funded projects, one set of Adjustment
49 Factors for Federally-funded projects and one set of Adjustment Factors for
50 County/State-funded projects in a Secure Facility. Each set of Adjustment Factors will

Contract No.: 22-J-02
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22-J-04

Notice to Bidders
00 11 13-1

JOB ORDER CONTRACTS

1 include one Adjustment Factor for performing work during Normal Working Hours and
2 a second Adjustment Factor for performing work during Other Than Normal Working
3 Hours. All Adjustment Factors apply to every task in the Construction Task Catalog®.
4

5 Upon award of contract and as projects are identified, the Contractor will jointly scope
6 the work with the County Project Manager. The County Project Manager will prepare
7 a Detailed Scope of Work and issue a Request for Proposal to the Contractor. The
8 Contractor will then prepare a Work Order Proposal for the project including a Work
9 Order Price Proposal, Schedule, Sketches or Drawings, a list of subcontractors, and
10 other requested documentation. The value of the Work Order Price Proposal shall be
11 calculated by summing the total of the calculation for each Pre-priced Task (Unit Price
12 x quantity x Adjustment Factor) plus the value of all Non-Pre-priced Tasks.
13

14 If the Work Order Price Proposal is found to be reasonable, a Work Order may be
15 issued. The Contractor is required to complete each Detailed Scope of Work for the
16 Work Order Price within the Job Order Completion Time.
17

18 A Work Order will reference the Detailed Scope of Work and set forth the Work Order
19 Completion Time, and the Work Order Price. The Work Order Price is determined by
20 multiplying the preset Unit Prices by the appropriate quantities and by the appropriate
21 Adjustment Factor. The Work Order Price shall be a lump sum, fixed price for the
22 completion of the Detailed Scope of Work.
23

24 A separate Work Order will be issued for each project. Extra work, credits, and
25 deletions will be contained in a Supplemental Work Order.
26

27 Minimum and Maximum Contract Values:

- 28 A. There is no Minimum Contract Value for this Contract. If a contract is awarded,
29 the Contractor is not guaranteed to receive a specified minimum amount of
30 work during the Contract Term.
31
- 32 B. The Maximum Contract Value is \$5,700,000.00. The Contractor is not
33 guaranteed to receive this volume of Work Orders. It is merely an estimate. The
34 Owner has no obligation to issue Work Orders in excess of the Minimum
35 Contract Value.
36
- 37 C. The successful bidder shall furnish a payment bond and a performance bond
38 in the amount of \$2,000,000 each as security for the payment of all persons
39 performing and furnishing materials in connection with this Contract. If the
40 aggregate outstanding Job Orders issued under the contract exceeds
41 \$2,000,000, increases in the Payment and Performance Bonds in increments
42 of \$500,000 will be required such that the amount of the Payment and
43 Performance Bonds are not less than one hundred percent (100%) of the
44 outstanding aggregate Job Orders issued. Bonds shall remain in force for the
45 duration and until completion of any outstanding Job Order. At no time may the
46 sum of outstanding Job Orders exceed the amount of the Payment and
47 Performance Bonds.
48

49 Contract Term:

- 50 A. The Contract Term commences on the date the contract is executed by the
51 County of Fresno Board of Supervisors (i.e.: the effective date of the Contract).

1
2 B. The term of the Job Order Contract will be either for one year or when issued
3 Work Orders totaling the Maximum Contract Value have been completed,
4 whichever occurs first. All Work Orders must be issued but not necessarily
5 completed within one calendar year of the effective date of the Contract. All
6 Work Orders for which a Notice to Proceed is issued by the County Contract
7 Manager during the term of this Contract shall be valid and in effect
8 notwithstanding that the Detailed Scope of Work may be performed, payments
9 may be made, and the guarantee period may continue, after the Contract Term
10 has expired. All terms and conditions of the Contract apply to each Work Order.
11 No notices to proceed will be issued after 5:00, P.M. on the final day of the
12 Contract Term.
13

14 Bidders may fill out a Request to be Added to Planholders list:

15
16 <https://www.co.fresno.ca.us/departments/public-works-planning/divisions-of-public-works-and-planning/design-division/planholders-list-request-to-be-added>
17
18

19 Requesters will then be listed as a planholder for the project on the website and
20 receive email notifications and addenda regarding the project.
21

22 Prospective bidders may also select the project on www.BidExpress.com. Those that
23 demonstrate interest in the project will also be added to the planholders list, and will
24 receive notifications and addenda regarding this project.
25

26 Planholder and exchange/publication names may be obtained from the Fresno County
27 website at <http://www.co.fresno.ca.us/planholders>. Electronic copies in “.pdf” file
28 format of the official project plans and specifications and such additional supplemental
29 project information as may be provided at the mandatory pre-bid conference.
30

31 The bid documents are available online at:
32 <https://www.bidexpress.com/businesses/36473/home> and bids may be submitted
33 electronically through that website.
34

35 If a bidder is unable to submit a bid via Bid Express, Bid books, which contain bid
36 proposal sheets necessary to submit a bid, may be obtained at
37 <http://www.co.fresno.ca.us/planholders>. Paper bids shall be submitted in a sealed,
38 opaque envelope addressed to the Department and labeled with the name of the
39 bidder, the name of the project, the contract number, and the statement 'Do Not Open
40 Until The Time Of Bid Opening.'
41

42 A Summary of Bids for the apparent low bidder will be posted at the above listed
43 website, generally within 24 hours of the Bid Opening.
44

45 All questions regarding this contract shall be in writing and shall be received by the
46 Department of Public Works and Planning, Design Division, no later than 2:00 P.M.
47 on the seventh (7th) calendar day before bid opening. Any questions received after
48 this deadline will not receive a response unless the Department of Public Works and
49 Planning elects to issue an addendum to revise the bid opening date. In the event that
50 the bid opening date is revised, the deadline for questions will be extended to no later
51 than 2:00 P.M. on the seventh (7th) calendar day before the revised bid opening date.

1 Questions shall be submitted on the Request for Clarification form provided on the
2 contract website at:

3
4 [http://www.co.fresno.ca.us/departments/public-works-and-planning/construction-](http://www.co.fresno.ca.us/departments/public-works-and-planning/construction-bidding-opportunities/22-j-02-22-j-03-22-j-04-class-b-general-building-job-order-contract/request-for-clarification-form)
5 [bidding-opportunities/22-j-02-22-j-03-22-j-04-class-b-general-building-job-order-](http://www.co.fresno.ca.us/departments/public-works-and-planning/construction-bidding-opportunities/22-j-02-22-j-03-22-j-04-class-b-general-building-job-order-contract/request-for-clarification-form)
6 [contract/request-for-clarification-form](http://www.co.fresno.ca.us/departments/public-works-and-planning/construction-bidding-opportunities/22-j-02-22-j-03-22-j-04-class-b-general-building-job-order-contract/request-for-clarification-form)
7

8 Any changes to, or clarification of, the Contract documents and specifications shall be
9 in the form of a written addendum issued to planholders of record. Questions that
10 prompt a change or clarification shall be included in the addendum with the
11 subsequent answer.

12
13 Any oral explanation or interpretations given to this project are not binding.

14
15 Bidders will submit one (1) bid that will be considered for three potential Contracts
16 being offered.

17
18 Bidders will bid three (3) sets of Adjustment Factors to be applied to the Unit Prices:

- 19 • One set of Adjustment Factors for County/State-funded projects.
- 20 • One set of Adjustment Factors for Federally-funded projects.
- 21 • One set of Adjustment Factors for County/State-funded projects in a Secure
22 Facility.

23
24 Each set of Adjustment Factors will include one Adjustment Factor for performing work
25 during Normal Working Hours and a second Adjustment Factor for performing work
26 during Other Than Normal Working Hours. All Adjustment Factors apply to every task
27 in the Construction Task Catalog®.

28
29 The County intends to award a contract to each of the three (3) lowest responsible
30 bidders. One proposal must be submitted by each bidder wishing to bid for one of the
31 three contracts in the Class B license category. Bids will be compared, for purposes
32 of identifying the apparent low bidder for proposed award of the contract, on the basis
33 of the Award Criteria Figure. The Award Criteria Figure is the sum of the weighted
34 Adjustment Factors.

35
36 The Construction Task Catalog® is priced at a net value of 1.0000. The bid shall be an
37 increase to (e.g., 1.1000) or decrease to (e.g., 0.9500) the Unit Prices listed in the
38 Construction Task Catalog®. Bidders who submit separate Adjustment Factors for
39 separate Unit Prices will be considered non-responsive and their bid will be rejected.

40
41 The Owner selected The Gordian Group's (Gordian) Job Order Contracting (JOC)
42 Solution for their JOC program. The Gordian JOC Solution™ includes Gordian's
43 proprietary JOC Software and JOC Applications, construction cost data, and
44 Construction Task Catalog® which shall be used by the Contractor solely for the
45 purpose of fulfilling its obligations under this Contract, including the preparation and
46 submission of Job Order Proposals, Price Proposals, subcontractor lists, and other
47 requirements specified by the Owner. The Contractor shall be required to execute
48 Gordian's JOC System License and Fee Agreement and pay a 1% JOC System
49 License Fee to obtain access to the Gordian JOC Solution™. The JOC System
50 License Fee applies to all Job Orders issued to the Contractor under the terms this

1 Contract. The Contractor shall include the JOC System License Fee in the Adjustment
2 Factors.

3
4 Bid security in the amount \$25,000, and in the form of a bid bond issued by an admitted
5 surety insurer licensed by the California Department of Insurance, cash, cashier's
6 check or certified check shall accompany the bid. Bid security shall be made in favor
7 of the County of Fresno. You must either attach an electronic bid bond or provide an
8 original bid bond (or other form of bid security authorized by Public Contract Code
9 Section 20129(a)), prior to the bid opening, in accordance with the detailed directions
10 set forth in Section 1.04 ("PREPARATION OF PROPOSALS") of the Instructions to
11 Bidders. Each paper bid bond shall be submitted in a sealed envelope addressed to
12 the Department and labeled with the name of the bidder, the name of the project, the
13 contract number, and the statement 'Bid Bond - Do Not Open Until The Time Of Bid
14 Opening.'

15
16 No contract will be awarded to a contractor who has not been licensed in accordance
17 with the provisions of the Contractors State License Law, California Business and
18 Professions Code, Division 3, Chapter 9, as amended, or whose bid is not on the
19 proposal form included in the contract document. A valid California Contractor's
20 License, **Class B, (General Building)** is required for this project.

21
22 Pursuant to Section 1773 of the Labor Code, the general prevailing wage rates in the
23 county, or counties, in which the work is to be done have been determined by the
24 Director of the California Department of Industrial Relations. These wages are set
25 forth in the General Prevailing Wage Rates for this contract available from the
26 California Department of Industrial Relations' Internet web site at
27 <http://www.dir.ca.gov/DLSR/PWD>. Future effective general prevailing wage rates,
28 which have been predetermined and are on file with the California Department of
29 Industrial Relations are referenced but not printed in the general prevailing wage rates.

30
31 **This project is subject to compliance monitoring and enforcement by the**
32 **Department of Industrial Relations.** No contractor or subcontractor may be listed
33 on a bid proposal or awarded a contract for a public works project unless registered
34 with the Department of Industrial Relations pursuant to Labor Code section 1725.5
35 [with limited exceptions from this requirement for bid purposes only under Labor Code
36 section 1771.1(a)].

37
38 This contract is subject to state contract nondiscrimination and compliance
39 requirements pursuant to Government Code, Section 12990.

40
41 The Federal minimum wage rates for this project as predetermined by the United
42 States Secretary of Labor are set forth in **General Decision Number CA20230018,**
43 **Dated 03/03/2023,** which is incorporated in these special provisions by this reference
44 as if fully set forth herein and which can be viewed at <https://www.SAM.gov>, under
45 CA20230018. Said Federal wage rates, as well as project plans, special provisions,
46 and bid forms, may also be examined at the County of Fresno office described in the
47 preceding paragraph. Addenda to modify the reference to Federal minimum wage
48 rates to reflect revisions thereto, if necessary, will be issued to planholders of record.

49
50 Attention is directed to the federal provisions in the "Federal Requirements" section of
51 these specifications. If there is a difference between the minimum wage rates
52 predetermined by the Secretary of Labor and the general prevailing wage rates
53 determined by the Director of the California Department of Industrial Relations for

1 similar classifications of labor, the Contractor and subcontractors shall pay not less
2 than the higher wage rate. The Department will not accept lower State wage rates not
3 specifically included in the Federal minimum wage determinations. This includes
4 "helper" (or other classifications based on hours of experience) or any other
5 classification not appearing in the Federal wage determinations. Where Federal wage
6 determinations do not contain the State wage rate determination otherwise available
7 for use by the Contractor and subcontractors, the Contractor and subcontractors shall
8 pay not less than the Federal minimum wage rate, which most closely approximates
9 the duties of the employees in question.

10
11 The successful bidder shall furnish a faithful performance bond in the amount of 100
12 percent of the Maximum Contract Value, a payment bond in the amount of 100 percent
13 of the Maximum Contract Value, and One Year Warranty Bond in the amount of 10
14 percent of the Maximum Contract Value. Each bond specified in this Notice (bid bond,
15 faithful performance bond and payment bond) shall meet the requirements of all
16 applicable statutes, including but not limited to those specified in Public Contract Code
17 section 20129 and Civil Code section 3248.

18
19 Each bond specified in this Notice shall be issued by a surety company designated as
20 an admitted surety insurer in good standing with and authorized to transact business
21 in this state by the California Department of Insurance, and acceptable to the County
22 of Fresno. Bidders are cautioned that representations made by surety companies will
23 be verified with the California Department of Insurance. Additionally, the County of
24 Fresno, in its discretion, when determining the sufficiency of a proposed surety
25 company, may require the surety company to provide additional information supported
26 by documentation. The County generally requires such information and
27 documentation whenever the proposed surety company has either a Best's Key Rating
28 Guide of less than **A** and a financial size designation of less than **VIII**. Provided,
29 however, that the County expressly reserves its right to require all information and
30 documentation to which the County is legally entitled from any proposed surety
31 company.

32
33 Pursuant to Public Contract Code Section 22300, substitution of securities for any
34 moneys withheld by the County of Fresno to ensure performance under the contract
35 shall be permitted.

36
37 The Board of Supervisors reserves the right to reject any or all bids.

38
39 Board of Supervisors, County of Fresno

40
41 Paul Nerland, County Administrative Officer

42
43 Bernice E. Seidel, Clerk to the Board

44
45 Issue Date: March 7, 2023

46
47
END OF SECTION

1 INSTRUCTIONS TO BIDDERS

2
3 1.01 EXPLANATION TO BIDDERS

4
5 An explanation desired by bidders regarding the meaning or interpretation of the bid
6 documents must be requested in writing no later than 10 days prior to the bid opening.
7 Oral explanations given before the award of the contract will not be binding. Any
8 interpretation made will be in the form of an addendum to the bid documents, said
9 addendum will only be issued by the County's Director of Public Works and Planning
10 ("Director"). A copy of the addendum will be furnished to each registered holder of a
11 set of the bid documents and its receipt shall be acknowledged on the Bid Proposal.
12 Each addendum will also be posted on the Public Works and Planning website at
13 <http://www.co.fresno.ca.us/planholders>.

14
15
16 1.02 EXAMINATION OF CONSTRUCTION TASK CATALOG®, TECHNICAL
17 SPECIFICATIONS AND CONTRACTING REQUIREMENTS

18
19 The bidder is required to examine carefully the Construction Task Catalog®, Technical
20 Specifications, Contracting Requirements, and contract forms for submitting a
21 proposal. It is mutually agreed that the submission of a proposal shall be considered
22 prima facie evidence that the bidder has made such examination and is satisfied with
23 the requirements of the Construction Task Catalog®, Technical Specifications and the
24 Contracting Requirements, Division 00.

25
26
27 1.03 PROPOSAL GUARANTEE

28
29 The bidder shall furnish bid security, also referred to herein as a proposal guarantee,
30 consisting of a bid bond, cash, certified check, or cashier's check for \$25,000.00
31 ("Proposal Guarantee").

32
33 In case security is in the form of a certified check or cashier's check, the County
34 (referred to hereinafter as "Owner") may make such disposition of same as will
35 accomplish the purpose of which submitted. Checks deposited by unsuccessful
36 bidders will be returned as soon as practicable after the bid opening.

37
38
39 1.04 PREPARATION OF PROPOSALS

40
41 The County intends to award a contract to each of the three (3) lowest responsive and
42 responsible bidders. One bid proposal is required by each bidder wishing to bid for
43 one of the contracts.

44
45 The bidder shall prepare a proposal on the blank proposal form furnished by the
46 County (Owner). The bidder shall specify Adjustment Factors in both words and
47 figures for all six (6) types of Adjustment Factors.

1
2 Alternate or conditional bids will not be accepted.

3
4 The bidder's proposal shall be executed by the individual, by one or more partners of
5 the partnership, or by one or more of the officers of the corporation submitting it. If the
6 proposal is made by an individual, a name and post office address must be shown. If
7 made by a partnership, the name of each member of the partnership must be shown.
8 If made by a corporation, the proposal must show the name of the state under which
9 the corporation was chartered and the name of the president, vice president, secretary
10 and treasurer.

11
12 The required proposal guarantee must accompany the proposal.

13
14
15 1.05 SUBCONTRACTORS

16
17 No subcontractors shall be listed with the bid. Each individual Work Order Proposal
18 under the Contract shall include the subcontractor listing.

19
20
21 1.06 SUBMISSION OF PROPOSAL

22
23 A. Electronic Bid Submittal

24
25 The bidder has the option to submit the bid for this Project
26 electronically. The bidder must either attach an electronic bid bond or
27 provide an original bid bond (or other form of bid security authorized by
28 Public Contract Code Section 20129(a)), prior to the bid opening.

29
30 Bidders submitting online may use one of the accepted electronic
31 sureties (Tibunu or Surety 2000) to submit their bid bond; or may
32 submit cash, cashier's check, certified check, or a bidder bond to
33 Design Services at 2220 Tulare St., Seventh Floor, Fresno, CA 93721.
34 Those submitting bid bonds directly to Design Services must submit
35 their bid bond:

- 36
37 1. Under sealed cover
38 2. Marked as a bid-bond
39 3. Identifying the contract number and the bid opening date on the
40 cover

41
42 B. Bid Submittal by Personal Delivery or by Mail

43
44 The bidder has the option to submit the bid by personal delivery or by
45 mail. If the bid is not submitted electronically, then all words and
46 figures shall be written on the Proposal form in ink. In the case of a
47 discrepancy between the factors written in words and those written in

1 figures, the written words shall govern. The bidder's proposal shall be
2 signed in ink by the individual executing the bid on behalf of the bidder.

3
4 The required proposal guarantee must accompany the proposal.

5
6 Each proposal shall be submitted in a sealed envelope labeled to
7 clearly indicate the contract and contents.

8
9 When sent by mail, a sealed proposal must be addressed to the
10 Fresno County Department of Public Works and Planning, Office of the
11 Design Engineer, Seventh Floor, Fresno County Plaza Building, 2220
12 Tulare Street, Fresno, CA 93721. All proposals shall be filed prior to
13 the time and at the place specified in the NOTICE TO BIDDERS.
14 Proposals received after the time for opening of the proposals will be
15 returned to the bidder unopened.

16 17 18 1.07 IRREGULAR PROPOSALS

19
20 Proposals shall be considered irregular and may be rejected for the following reasons:

- 21
22 A. The proposal forms furnished by the Owner are not used or are altered.
23
24 B. There are unauthorized additions, conditional or alternate proposals or
25 irregularities of any kind which tend to make the proposal incomplete or
26 indefinite.
27
28 C. The bidder adds any provision reserving the right to accept or reject an award,
29 or to enter into a contract pursuant to an award.
30
31 D. The bid fails to contain the specified six (6) Adjustment Factors.

32 33 34 1.08 DISQUALIFICATION OF BIDDERS

35
36 Any one or more of the following causes may be considered as sufficient for
37 disqualification of a bidder and rejection of that bidder's proposal:

- 38
39 A. More than one proposal for the same work from an individual, partnership or
40 corporation.
41
42 B. Evidence of collusion among bidders. Participants in such collusion will receive
43 no recognition as bidders for any future work of the Owner until such participant
44 shall have been reinstated as a qualified bidder.
45
46 C. Lack of competency and adequate machinery, plant or other equipment, as
47 may be revealed by financial statement if required.
48

- 1 D. Unsatisfactory performance record as shown by past work for the Owner,
2 judged from the standpoint of workmanship and progress.
3
4 E. Prior commitments or obligations which in the judgment of the Owner might
5 hinder or prevent the prompt completion of the work.
6
7 F. Failure to pay, or satisfactorily settle, all bills due for labor or materials on former
8 contracts in force at the time of letting the bid.
9
10 G. Failure to comply with any qualification regulation of the Owner.
11
12 H. Failure to furnish full amount of Proposal Guarantee with bid or failure to sign
13 bid bond.
14

15 16 1.09 WITHDRAWAL OR REVISION OF PROPOSALS 17

18 A bidder may, without prejudice, withdraw a proposal after it has been deposited,
19 provided the request for such withdrawal is received in writing before the time set for
20 opening proposals. The bidder may then submit a revised proposal provided it is
21 received prior to the time set for opening proposals.
22

23 24 1.10 PUBLIC OPENING OF PROPOSALS 25

26 Proposals will be opened and read publicly at the time and place indicated in the
27 Notice to Contractors. Bidders or their authorized agents are invited to be present.
28

29 30 1.11 BID PROTEST PROCEDURE / RELIEF OF BIDDER 31

32 A. BID PROTEST PROCEDURE 33

34 Any bid protest must be submitted in writing and delivered by the
35 Bidder by either of the following means: (1) via e-mail to
36 DesignServices@fresnocountyca.gov; or (2) via certified mail, return
37 receipt requested to the following address: Design Division,
38 Department of Public Works and Planning, 2220 Tulare Street, Sixth
39 Floor, Fresno, CA 93721.
40

41 The bid protest must be received no later than 5:00 p.m. of the seventh
42 (7th) calendar day following the deadline for submittal of the specific
43 bid document(s) placed at issue by the protest. Any Bidder filing a
44 protest is encouraged to submit the bid protest via e-mail, because the
45 deadline is based on the Department's receipt of the bid protest. A bid
46 protest accordingly may be rejected as untimely if it is not received by
47 the deadline, regardless of the date on which it was postmarked. The

1 Bidder's compliance with the following additional procedures also is
2 mandatory:

3
4 The initial protest document shall contain a complete statement of the
5 grounds for the protest, including a detailed statement of the factual
6 basis and any supporting legal authority.

7
8 The protest shall identify and address the specific portion of the
9 document(s) forming the basis for the protest.

10
11 The protest shall include the name, address and telephone number of
12 the person representing the protesting party.

13
14 The Department will provide a copy of the initial protest document and
15 any attached documentation to all other Bidders or proposers who
16 appear to have a reasonable prospect of receiving an award
17 depending upon the outcome of the protest.

18
19 The Board of Supervisors will issue a decision on the protest. If the
20 Board of Supervisors determines that a protest is frivolous, the party
21 originating the protest may be determined to be irresponsible and that
22 party may be determined to be ineligible for future contract awards.

23
24 The procedure and time limits set forth herein are mandatory and are
25 the Bidder's sole and exclusive remedy in the event of a bid protest.
26 Failure by the Bidder to comply with these procedures shall constitute
27 a waiver of any right to further pursue the bid protest, including the
28 subsequent filing of a Government Code Claim or legal proceedings.

29
30 **B. RELIEF OF BIDDER**

31
32 A bidder who claims a mistake in their bid must follow the procedures
33 in Public Contract Code Section 5100 et seq in seeking relief of their
34 bid.

35
36
37 **1.12 AWARD OF CONTRACT**

38
39 The award of the contracts, if one or all are awarded, will be to the lowest responsible
40 bidders whose proposals comply with all the prescribed requirements. A successful
41 bidder will be awarded only one (1) contract from this Bid Solicitation. The awards if
42 made, will be within 54 calendar days after the opening of proposals. If the Owner
43 finds that it will be unable to award the contract within 54 calendar days after the
44 opening of proposals, the Director may request any or all bidders to extend all terms
45 of their proposal(s) to a specified date. Additional such extensions may possibly be
46 requested. If a bidder does not elect to extend the terms of his or her proposal beyond
47 the 54 calendar days following opening of proposals, or does not respond within 10
48 days to a request for an extension, that bidder's proposal will be deemed as having

1 expired 54 calendar days following opening of the proposals, and that bidder's
2 proposal will not be considered for award of the contract.

3
4 Successful bidders will be notified in writing, by letter mailed to the address shown on
5 the proposal, that his/her bid has been accepted and that he or she has been awarded
6 the contract.

7
8 The right is reserved to reject any or all proposals, to waive technicalities, to advertise
9 for new proposals, or to proceed to do this work otherwise, if in the judgment of the
10 awarding authorities the best interests of the Owner will be promoted thereby.

11 12 13 1.13 CANCELLATION OF AWARD

14
15 The awarding authority reserves the right to cancel the award of any contract at any
16 time before the execution of said contract by all parties without any liability against the
17 Owner.

18 19 20 1.14 CONTRACT BONDS

21
22 The bidder to whom the award is made shall, within ten days, enter into a written
23 contract with the Owner. The bidder shall forfeit the proposal guarantee in case he or
24 she does not follow through with the contract within ten days after the contract is
25 awarded.

26
27 The successful bidder shall furnish a faithful performance and payment bond in the
28 amount of \$2,000,000 each as security for the payment of all persons performing and
29 furnishing materials in connection with this Contract. If the aggregate outstanding Job
30 Orders issued under the contract exceeds \$2,000,000, increases in the Payment and
31 Performance Bonds in increments of \$500,000 will be required such that the amount
32 of the Payment and Performance Bonds are not less than one hundred percent
33 (100%) of the outstanding aggregate Job Orders issued. Bonds shall remain in force
34 for the duration and until completion of any outstanding Job Order. At no time may the
35 sum of outstanding Job Orders exceed the amount of the Payment and Performance
36 Bonds. The successful bidder shall furnish a one year Warranty Bond in the amount
37 of 10 percent (10%) of the Maximum Contract Value. Said bonds shall be submitted
38 in triplicate.

39
40 The payment bond shall contain provisions such that if the Contractor or his/her
41 subcontractors shall fail to pay (a) amounts due under the Unemployment Insurance
42 Code with respect to work performed under the contract, or (b) any amounts required
43 to be deducted, withheld and paid over to the Employment Development Department
44 and to the Franchise Tax Board from the wages of the employees of the Contractor
45 and subcontractors pursuant to Section 13020 of the Unemployment Insurance Code
46 with respect to such work and labor, then the surety will pay these amounts. In case
47 suit is brought upon the payment bond, the surety will pay a reasonable attorney's fee
48 to be fixed by the court.

1
2 The contract form is attached hereto for the Contractor's information only. Execution
3 of the contract by bidders will not be required until after the bid award is made. Liability
4 and Workers Compensation Insurance requirements shall be as set forth in the
5 Agreement.

6
7
8 1.15 BUILDERS RISK INSURANCE
9

10 The Contractor shall not be required to obtain Builder's Risk insurance for the overall
11 contract. Builder's Risk insurance may be required on an individual Work Order. This
12 requirement will be identified in the Detailed Scope of Work and the cost will be
13 handled with a reimbursable line item in the Work Order Price Proposal.
14

15
16 1.16 POST-BID / PRE-AWARD INFORMATION AND REQUIREMENTS
17

18 The Owner selected The Gordian Group's (Gordian) Job Order Contracting (JOC)
19 Solution for their JOC program. The Gordian JOC Solution™ includes Gordian's
20 proprietary JOC Software and JOC Applications, construction cost data, and
21 Construction Task Catalog® which shall be used by the Contractor solely for the
22 purpose of fulfilling its obligations under this Contract, including the preparation and
23 submission of Job Order Proposals, Price Proposals, subcontractor lists, and other
24 requirements specified by the Owner. The Contractor shall be required to execute
25 Gordian's JOC System License and Fee Agreement and pay a 1% JOC System
26 License Fee to obtain access to Gordian JOC Solution™. The JOC System License
27 Fee applies to all Job Orders issued to the Contractor under the terms this Contract.
28 The Contractor shall include the JOC System License Fee in the Adjustment
29 Factors.
30

31 END OF SECTION
32
33

1 **BIDDERS' CHECKLIST (CAPITAL IMPROVEMENT CONTRACTS)**

2
3 Because of numerous technical irregularities resulting in rejected proposals for
4 projects, the following checklist is offered for the bidders' information and use in
5 preparing the paper proposal. This checklist is not to be considered as part of the
6 contract documents. Bidders are cautioned that deleting or not submitting a form
7 supplied in the bid documents (even if the form does not require signature) may
8 result in an irregular bid.

9
10 **P-2, PROPOSAL SHEET (Section 00 42 13)**

11
12 Bidder name on each sheet. Adjustment Factor for each type listed. Make no
13 additions such as "plus tax", "plus freight", or conditions such as "less 2% if paid
14 by 15th". Use ink or typewriter. Acknowledge addenda.

15
16 **P-3, SUBCONTRACTOR LIST**

17
18 Not Applicable for Job Order Contract bids. Subcontractor Listings shall be
19 required as part of a Work Order Proposal for each individual Work Order.

20
21 **P-4.1, BID SECURITY FORM - Read the Notices and Notes (Section 00 43 13)**

22
23 Indicate type of bid security provided.
24 Provide contract license information.

25
26 **State business name and if business is a:**

27 Corporation - list officers

28 Partnership - list partners

29 Joint Venture - list members

30 If Joint Venture members are corporations or partnerships, list their
31 officers or partners.

32 Individual - list Owner's name and firm name style

33
34 **Signature of Bidder –BID MUST BE SIGNED!**

35 Corporation - by an officer

36 Partnership - by a partner

37 Joint Venture - by a member

38 Individual - by the Owner

39 If signature is by a Branch Manager, Estimator, Agent, etc., the bid must be
40 accompanied by a power of attorney authorizing the individual to sign bids,
41 otherwise the bid may be rejected.

42
43 **Business Address - Firm's Street Address**

44
45 **Mailing Address - P.O. Box or Street Address**

1 **BID SECURITY (PROPOSAL GUARANTEE)**

2
3 \$25,000.00

4
5 Type of Bid Security:

6
7 Cash - Not recommended; cash is deposited in a clearing account and is
8 returned to bidders by County warrant. This process may take several
9 weeks.

10
11 Cashier's or Certified Checks - Will be held until the bid is no longer under
12 consideration. If submitted by a potential awardee, they will be returned
13 when the contract bonds are submitted and approved.

14
15 Bid Bonds - Must be signed by the bidder and by the attorney-in-fact for the
16 bonding company. Signature of attorney-in-fact should be notarized and the
17 bond should be accompanied by bonding company's affidavit authorizing
18 attorney-in-fact to execute bonds. An unsigned bid bond will be cause for
19 rejection.

20
21 **P-4.2, NON COLLUSION DECLARATION (Section 00 45 19)**

22
23 Must be completed, signed, and returned with bid.

24
25 **P-5, MINORITY BUSINESS ENTERPRISE (Section 00 43 39)**

26
27 (N/A).

28
29 **P-6.1, Certification With Regard To The Performance Of Previous Contracts**
30 **Or Subcontracts Subject To The Equal Opportunity Clause And The Filing**
31 **Of Required Reports (Section 00 45 36)**

32
33 Must be completed, signed, and returned with bid. Certification of subcontractors
34 is the responsibility of the Bidder and must be provided to the County upon
35 request.

36
37 **P-6.2, TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29**
38 **DEBARMENT AND SUSPENSION CERTIFICATION (Section 00 45 46)**

39
40 Must be completed, signed, and returned with bid. Certification of subcontractors
41 is the responsibility of the Bidder and must be provided to the County upon
42 request.

1 **P-7, GUARANTY OF WORK (Section 00 65 36)**

2
3 Bidder to complete and return with bid.

4
5 **OTHER**

6
7 If the bid forms have been removed from the specifications booklet, staple the
8 pages together.

9 Make sure the bid envelope is sealed and shows the contract name, bid package
10 and contract number.

11
12 If the bid is mailed, allow sufficient time for postal delivery prior to the bid closing
13 time. Bids received after the scheduled time will be returned unopened. Be sure
14 the statement "**DO NOT OPEN UNTIL TIME OF BID OPENING**", is on the
15 envelope.

16
17
18 END OF SECTION
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1 **PROPOSAL TO THE BOARD OF SUPERVISORS**
2
3 **COUNTY OF FRESNO**
4
5

6 Contract: **General Building Job Order Contract**
7

8 Contract No.: **#22-J-02**
9 **22-J-03**
10 **22-J-04**
11

12 Various Funding Orgs.
13
14

15 If this proposal shall be accepted and the undersigned shall fail to contract, as aforesaid,
16 and to give the two bonds in the sums to be determined as aforesaid, with surety
17 satisfactory to the Awarding Authority, within ten (10) days after the award of the
18 contract, the Awarding Authority, at its option, may determine that the bidder has
19 abandoned the contract, and thereupon this proposal and the acceptance thereof shall
20 be null and void, and the forfeiture of such security accompanying this proposal shall
21 operate and the same shall be the property of the Owner.
22

23 The undersigned, as bidder, declares that all addenda issued with respect to this bid
24 have been received and incorporated into this Proposal. The bidder's signature on this
25 Proposal also constitutes acknowledgement of all addenda.
26

27 The undersigned, as bidder, declares that the only persons, or parties interested in this
28 proposal as principals are those named herein; that this proposal is made without
29 collusion with any other person, firm or corporation; that they have carefully examined
30 the Construction Task Catalog®, Technical Specifications and Contracting
31 Requirements and they propose and agree if this proposal is accepted, that they will
32 contract with the County of Fresno to provide all necessary machinery, tools, apparatus
33 and other means of construction, and to do all the work and furnish all the materials
34 specified in the contract in the manner and time therein prescribed, and according to the
35 requirements of the Owner as therein set forth.
36

37 The Contractor shall perform all Work required called for in the Detailed Scope of Work
38 of each individual Work Order issued under this Contract using the Construction Task
39 Catalog® and Technical Specifications incorporated herein. Contractor shall perform any
40 or all functions called for in the Contract Documents as specified in individual Work
41 Orders against this Contract for the Unit Prices specified in the Construction Task
42 Catalog® (CTC) and Non Pre-priced work multiplied by the following Adjustment Factors.
43

44 The Bidder shall set forth Adjustment Factors in the respective space provided below.
45 **See example below.** Failure to submit Adjustment Factors for all categories will result
46 in the Proposal being deemed non-responsive.
47

48 **The Other Than Normal Working Hours Adjustment Factors SHALL be EQUAL to**
49 **or GREATER THAN the corresponding Normal Working Hours Adjustment**
50 **Factors.**
51

52 The Contractor shall perform the Tasks required by each individual Job Order
53 using the following Adjustment Factors. When submitting Work Order Price

Contract No. #22-J-02
22-J-03
22-J-04

Proposal
00 42 13-1

GENERAL BUILDING
JOB ORDER CONTRACTS

1 Proposals related to specific Work Orders, the Contractor shall utilize one or
2 more of the Adjustment Factors applicable to the Work being performed
3 provided on the Schedule of Adjustment Factors below, as applicable.
4
5

6 **Example**

7
8
9
10
11 One Point Two One Zero Two

12 (Written in words)

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(Specify to four (4) decimal places)

1 **BIDDER:** _____

2
3 **Schedule of Adjustment Factors**

4
5 In case of a discrepancy between words and figures the words shall prevail. Use clearly
6 legible words and figures

- 7
8
9 1. **County/State-funded Projects – Normal Working Hours** (7:00am to 5:00pm
10 Monday through Friday)

11 _____
12

13 (Written in words)

14 .

15 (Specify to four (4) decimal places)

- 16 2. **County/State-funded Projects – Other Than Normal Working Hours** (5:00pm to
17 7:00am Monday through Friday, and all day
18 Saturday, Sunday, and Holidays)

19 _____
20

21 (Written in words)

22 .

23 (Specify to four (4) decimal places)

- 24 3. **Federally-funded Projects – Normal Working Hours** (7:00am to 5:00pm Monday
25 through Friday)

26 _____
27

28 (Written in words)

29 .

30 (Specify to four (4) decimal places)

- 31 4. **Federally-funded Projects – Other Than Normal Working Hours** (5:00pm to
32 7:00am Monday through Friday, and all day
33 Saturday, Sunday, and Holidays)

34 _____
35

36 (Written in words)

37 .

38 (Specify to four (4) decimal places)

- 39 5. **County/State-funded Projects in Secure Facilities – Normal Working Hours**
40 (7:00am to 5:00pm Monday through Friday)

41 _____
42

43 (Written in words)

44 .

45 (Specify to four (4) decimal places)

- 46 6. **County/State-funded Projects in Secure Facilities – Other Than Normal**
47 **Working Hours** (5:00pm to 7:00am Monday through Friday, and all day
48 Saturday, Sunday, and Holidays)

49 _____
50

51 (Written in words)

52 .

53 (Specify to four (4) decimal places)

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BIDDER: _____

Acknowledgement of Addendum:

Addendum No. _____ Dated _____ Addendum No. _____ Dated _____

Addendum No. _____ Dated _____ Addendum No. _____ Dated _____

Award Criteria Figure

Transfer the number on Line 13 from the Award Criteria Figure Calculation below to the space provided below constituting the Bidder's Award Criteria Figure. Transfer the number and write the words.

 (Written in clearly legible words)

	.				
--	---	--	--	--	--

 (Specify to four (4) decimal places in legible figures)

Award Criteria Figure Calculation

The weighted multipliers in lines 2, 4, 6, 8, 10, and 12 below are for the purpose of calculating an Award Criteria Figure only. No assurances are made by the Owner that Work will be ordered under the Contract in a distribution consistent with the weighted percentages. The Award Criteria Figure is only used for the purpose of determining the lowest Bidder.

The Owner Reserves The Right To Revise All Arithmetic Errors In the Calculation of the Award Criteria Figure For Correctness.

Instructions To Bidder: Specify lines 1 through 13 to four (4) decimal places. Use conventional rounding methodology (i.e., if the number in the 5th decimal place is 0-4, the number in the 4th decimal remains unchanged; if the number in the 5th decimal place is 5-9, the number in the 4th decimal is rounded upward).

Line 1.	County/State-funded Projects – Normal Working Hours	1.	
Line 2.	Multiply Line 1 by 50%		2.
Line 3.	County/State-funded Projects – Other Than Normal Working Hours	3.	
Line 4.	Multiply Line 3 by 15%		4.
Line 5.	Federally-funded Projects – Normal Working Hours	5.	
Line 6.	Multiply Line 5 by 5%		6.
Line 7.	Federally-funded Projects – Other Than Normal Working Hours	7.	
Line 8.	Multiply Line 7 by 5%		8.
Line 9.	County/State-funded Projects in Secure Facilities – Normal Working Hours	9.	
Line 10.	Multiply Line 9 by 15%		10.
Line 11.	County/State-funded Projects in Secure Facilities – Other Than Normal Working Hours	11.	
Line 12.	Multiply Line 11 by 10%		12.
Line 13.	Add Lines 2, 4, 6, 8, 10 and 12. This is the Award Criteria Figure:		

END OF PROPOSAL FORM

END OF SECTION

1 **Bid Security**

2 Accompanying this proposal is security (check one only) in amount equal to at least
3 \$25,000.00:

4 Bid Bond (); Certified Check (); Cashier's Check (); Cash (\$)

5
6 **Addenda Acknowledgement**

7 Bidder has and acknowledges the following addenda: _____

8
9 **Bidder Signature**

10 Business Name _____

11 *Note: If bidder or other interested person is a corporation, state legal name of*
12 *corporation. If bidder is a co-partnership, state true name of firm.*

13 Business Owners and Officers Names _____

14 *Note: If bidder or other interested person is:*

- 15 • *a corporation, list names of the president, secretary, treasurer and manager*
- 16 *thereof*
- 17 • *a partnership, list names of all individual co-partners composing firm.*
- 18 • *an individual, state first and last name in full.*

19 Names of Owners and Key Employees _____

20 *Note: List majority owners of your firm. If multiple owners, list all. Also include anyone,*
21 *including key employees, who are actively promoting the contract. (SB1439)*

22 Licensed in accordance with an act providing for the registration of Contractors:

23 Class _____ Contractor License No. _____ Expires _____

24 DIR Registration Number _____

25
26 Business Address: _____

Zip Code

27
28 Mailing Address: _____

Zip Code

29
30 Business Phone: (_____) _____ Fax Number: (_____) _____

31
32 Email Address _____

33
34 Signature of Bidder: _____ Dated: _____

35
36 **NOTE:** If bidder is a corporation, the legal name of the corporation shall be set forth
37 above together with the signature of the officer or officers authorized to sign
38 contracts on behalf of the corporation; if bidder is a co-partnership, the true name of
39 the firm shall be set forth above together with the signature of the partner or partners
40 authorized to sign contracts on behalf of the co-partnership; and if bidder is an
41 individual, his or her signature shall be placed above. If signature is by an agent,
42 other than an officer of a corporation or a member of a partnership, a Power of
43 Attorney must be on file with the Owner prior to opening bids or submitted with
44 the bid; otherwise, the bid will be disregarded as irregular and unauthorized.

45
46 **END OF SECTION**

1 **CONTRACT:** GENERAL BUILDING JOB ORDER CONTRACTS

2 **CONTRACT:** 22-J-02, 22-J-03, 22-J-04, Class B

3
4 To the Board of Supervisors, County of Fresno:

5
6 **NON-COLLUSION DECLARATION**

7
8 **TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID***

9
10 The undersigned declares:

11
12 I am the _____ of
13 (Owner, Partner, Corporate Officer (list title), Co-Venturer)

14
15 _____, the party
16 making the foregoing bid.

17
18 The bid is not made in the interest of, or on behalf of, any undisclosed person,
19 partnership, company, association, organization, or corporation. The bid is
20 genuine and not collusive or sham. The bidder has not directly or indirectly induced
21 or solicited any other bidder to put in a false or sham bid. The bidder has not
22 directly or indirectly colluded, conspired, connived, or agreed with any bidder or
23 anyone else to put in a sham bid, or refrain from bidding. The bidder has not in any
24 manner, directly or indirectly, sought by agreement, communication, or conference
25 with anyone to fix the bid price of the bidder or any other bidder, or to fix any
26 overhead, profit, or cost element of the bid price, or of that of any other bidder. All
27 statements contained in the bid are true. The bidder has not, directly or indirectly,
28 submitted his or her bid price or any breakdown thereof, or the contents thereof,
29 or divulged information or data relative thereto, to any corporation, partnership,
30 company, association, organization, bid depository, or to any member or agent
31 thereof, and has not paid, and will not pay, any person or entity for that purpose.

32
33 Any person executing this declaration on behalf of a bidder that is a corporation,
34 partnership, joint venture, limited liability company, limited liability partnership, or
35 any other entity, hereby represents that he or she has full power to execute, and
36 does execute, this declaration on behalf of the bidder.

37
38 I declare under penalty of perjury under the laws of the State of California that the
39 foregoing is true and correct and that this declaration is executed on _____,
40 2023,

41
42 at _____.”
43 [city] [state]

44
45 (Signature)

46
47 (See Title 23 United States Code Section 112; Calif Public Contract Code Section
48 7106)

49
50 *NOTE: Completing, signing, and returning the Non-Collusion Declaration is a
51 required part of the Proposal. Bidders are cautioned that making a false
52 certification may subject the certifier to criminal prosecution.

53
54 **END OF SECTION**

Contract No.: #22-J-02
22-J-03
22-J-04

Non-Collusion Declaration
00 45 19-1

GENERAL BUILDING
JOB ORDER CONTRACTS

1 **CONTRACT:** GENERAL BUILDING JOB ORDER CONTRACT

2 **CONTRACT:** 22-J-02, 22-J-03, 22-J-04, Class B

3
4 **CERTIFICATION WITH REGARD TO THE PERFORMANCE OF PREVIOUS**
5 **CONTRACTS OR SUBCONTRACTS SUBJECT TO THE EQUAL OPPORTUNITY**
6 **CLAUSE AND THE FILING OF REQUIRED REPORTS.**

7
8
9
10 The bidder or proposed subcontractor hereby certifies that they have ___, have not ___,
11 participated in a previous contract or subcontract subject to the equal opportunity clause,
12 as required by Executive Orders 10925, 11114, or 11246, and that they have ___, have
13 not ___, filed with the Joint Reporting Committee, the Director of the Office of Federal
14 Contract Compliance, a Federal Government contracting or administering agency, or the
15 former President's Committee on Equal Employment Opportunity, all reports due under
16 the applicable filing requirements.

17
18
19
20 _____
(Company)

21
22 By: _____

23
24 _____
(Title)

25
26
27 Date: _____

28
29
30 **NOTE:** The above certification is required by the Equal Employment Opportunity
31 Regulations of the Secretary of Labor (41 CFR 60-1.7(b) (1), and must be submitted by
32 bidders and proposed subcontractors only in connection with contracts and subcontracts
33 which are subject to the equal opportunity clause. Contracts and subcontracts which are
34 exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only
35 contracts or subcontracts of \$10,000 or under are exempt.)

36
37 Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders
38 or their implementing regulations.

39
40 Proposed prime contractors and subcontractors who have participated in a previous
41 contract or subcontract subject to the Executive Orders and have not filed the required
42 reports should note that 41 CFR 60-1.7(b) (1) prevents the award of contracts and
43 subcontracts unless such contractor submits a report covering the delinquent period or
44 such other period specified by the Director, Office of Federal Contract Compliance, U. S.
45 Department of Labor.

1 **CONTRACT:** GENERAL BUILDING JOB ORDER CONTRACT

2
3 **CONTRACT:** 22-J-02, 22-J-03, 22-J-04, Class B

4
5 **TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29**
6 **DEBARMENT AND SUSPENSION CERTIFICATION**

7
8 The bidder or proposed subcontractor under penalty of perjury, certifies that, except as
9 noted below, he/she or any person associated therewith in the capacity of owner, partner,
10 director, officer, manager:

11
12 is not currently under suspension, debarment, voluntary exclusion, or determination
13 of ineligibility by any federal agency;

14
15 has not been suspended, debarred, voluntarily excluded or determined ineligible by
16 any federal agency within the past 3 years; does not have a proposed debarment
17 pending; and has not been indicted, convicted, or had a civil judgment rendered
18 against it by a court of competent jurisdiction in any matter involving fraud or official
19 misconduct within the past 3 years.

20
21 If there are any exceptions to this certification, insert the exceptions in the following space:

22
23 () No Exceptions

24 _____
25 _____
26 _____

27
28 Exceptions will not necessarily result in denial of award, but will be considered in
29 determining bidder responsibility. For any exception noted above, indicate below to whom
30 it applies, initiating agency, and dates of action:

31 _____
32 _____

33
34 Note: Providing false information may result in criminal prosecution or administrative
35 sanctions.

36
37 The above certification is part of the Proposal. Signing the Proposal on the
38 signature portion thereof shall also constitute signature of this Certification.

39
40 By my signature on this proposal, I certify, under penalty of perjury under the laws of the
41 State of California and the United States of America, that the Title 23 United States Code,
42 Section 112 Non-Collusion Declaration and the Title 49 Code of Federal Regulations, Part
43 29 Debarment and Suspension Certification are true and correct.

44
45 Company: _____

46
47 By: _____

48
49 Date: _____

50
51 Title: _____

52
53
54 Proposal - 6.2A

Contract No.: #22-J-02
22-J-03
22-J-04

Debarment and
Suspension Certification
00 45 46-1

GENERAL BUILDING
JOB ORDER CONTRACTS

NONLOBBYING CERTIFICATION FOR FEDERAL-AID CONTRACTS

The undersigned certifies, 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 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 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 accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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 certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Bidder: _____

By: _____

Date: _____

Title: _____

DISCLOSURE OF LOBBYING ACTIVITIES

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

<p>1. Type of Federal Action:</p> <p><input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance</p>	<p>2. Status of Federal Action:</p> <p><input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award</p>	<p>3. Report Type:</p> <p><input type="checkbox"/> a. initial <input type="checkbox"/> b. material change</p> <p style="text-align: right;">For Material Change Only: year _____ quarter _____ date of last report _____</p>
<p>4. Name and Address of Reporting Entity</p> <p><input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known</p> <p style="text-align: center;">Congressional District, if known</p>	<p>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</p> <p style="text-align: center;">Congressional District, if known</p>	
<p>6. Federal Department/Agency:</p>	<p>7. Federal Program Name/Description:</p> <p style="text-align: center;">CFDA Number, if applicable _____</p>	
<p>8. Federal Action Number, if known:</p>	<p>9. Award Amount, if known:</p>	
<p>10. Name and Address of Lobby Entity (If individual, last name, first name, MI)</p>	<p>11. Individuals Performing Services (including address if different from No. 10) (last name, first name, MI)</p>	
(attach Continuation Sheet(s) if necessary)		
<p>12. Amount of Payment (check all that apply)</p> <p>\$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned</p>	<p>14. Type of Payment (check all that apply)</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>13. Form of Payment (check all that apply):</p> <p><input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ Value _____</p>		
<p>15. 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 12:</p> <p style="text-align: center;">(attach Continuation Sheet(s) if necessary)</p>		
<p>16. Continuation Sheet(s) attached: Yes <input type="checkbox"/> No <input type="checkbox"/></p>		
<p>17. 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.</p>		
		<p>Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____</p>
<p>Authorized for Local Reproduction Standard Form - LLL</p>		
<p>Federal Use Only:</p>		

Standard Form LLL Rev. 04-28-06

INSTRUCTIONS FOR COMPLETING EXHIBIT 10-Q 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 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. 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.
11. 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).
12. 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.
13. Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
14. Check all boxes that apply. If other, specify nature.
15. 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.
16. Check whether or not a continuation sheet(s) is attached.
17. The certifying official shall sign and date the form, and 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

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AGREEMENT

THIS AGREEMENT made at Fresno, in Fresno County, California, by and between _____, hereinafter "Contractor", and the County of Fresno, hereinafter "Owner".

WHEREAS: This Agreement, together with other Contract Documents (as defined hereinbelow), shall establish an indefinite quantity Job Order Contract pursuant to which Contractor shall perform an ongoing series of individual projects at different locations throughout the County of Fresno. The construction work and services performed by Contractor under this Agreement shall be carried out pursuant to individual Work Orders. All capitalized terms not defined in this Agreement shall have the meanings set forth in the General Conditions referenced hereinbelow and incorporated herein by reference.

WITNESSETH, the Contractor and the Owner, for the consideration hereinafter named, agree as follows:

ARTICLE I. The Contractor agrees to furnish all labor, equipment and materials, including tools, implements, and appliances required, and to perform all the work in a good and workmanlike manner, free from any and all liens and claims of mechanics, materialmen, subcontractors, artisans, machinists, teamsters, and laborers required for **Job Order Contract No. 22-J-02, also referred to herein as the "Contract"**.

22-J-03

22-J-04

All goods and services provided shall be in strict compliance with the Construction Task Catalog®, Technical Specifications and Contracting Requirements therefore prepared by the Director of the Fresno County Department of Public Works and Planning and his authorized representatives, hereinafter "Project Manager", and other contract documents relating thereto.

ARTICLE II. The Contractor and the Owner agree that the Advertisement (Notice to Bidders), the Wage Scale, the Proposal hereto attached, the Instructions to Bidders, the General Conditions of the contract, the Technical Specifications, the Construction Task Catalog® and the Addenda and Bulletins thereto, the Contract Bonds and Certificates of Liability and Workers Compensation Insurance, and the Work Orders, together with this Agreement, form the Contract Documents, and they are as fully a part of the contract as if hereto attached or herein repeated. But no part of said specifications that is in conflict with any portion of this Agreement, or that is not actually descriptive of the work to be done thereunder, or of the manner in which the said work is to be executed, shall be considered as any part of this Agreement, but shall be utterly null and void, and anything that is expressly stated, delineated or shown in or upon the specifications or Detailed Scope of Work shall govern and be followed, notwithstanding anything to the contrary in any other source of information or authority to which reference may be made.

ARTICLE III. The Contractor agrees that the work under the contract shall be completed as determined by the Owner as set forth in the individual Work Orders. Time of performance shall be deemed as of the essence hereof and it is agreed that actual damages to the Owner from any delay in completion beyond the date provided for herein, or any extension thereof until the work is completed or accepted, shall be all provable damages plus liquidated damages as identified in the individual Work Orders ranging from **Two Hundred Fifty and 00/100 DOLLARS (\$250.00) to Five Thousand and**

1 **00/100 DOLLARS (\$5000.00)** per day; that said liquidated damage was arrived at by a
2 studied estimate of loss to the Owner in the event of a delay considering the following
3 damage items which are extremely difficult or impossible to determine: Additional
4 construction expense resulting from delay of completion including, but not limited to,
5 engineering, inspection, rental and utilities; provided, however, the Owner may
6 conditionally accept the work and occupy and use the same if there has been such a
7 degree of completion as shall in its opinion render the same safe, fit and convenient for
8 the use for which it is intended and in such cases the Contractor and Surety shall not be
9 charged for liquidated damages for any period subsequent to such conditional
10 acceptance and occupation by the Owner but Owner may assess actual damages
11 caused by failure of total completion during such period. The time during which the
12 Contractor is delayed in said work by the acts or neglects of the Owner or its employees
13 or those under it by contract or otherwise, or by the acts of God which the Contractor
14 could not have reasonably foreseen and provided for, or by storms and inclement
15 weather which delays the work, or by any strikes, boycotts, or like obstructive action by
16 employee or labor organizations, or by any general lockouts or other defensive action
17 by employers, whether general, or by organizations of employers, shall be added to the
18 time for completion as aforesaid.

19
20 **ARTICLE IV. COMPENSATION:** The Owner agrees to make payments on account
21 thereof as provided in the General Conditions.

22
23 The Contract is an indefinite-quantity contract for construction work and services. There
24 is no Minimum Contract Value for this Contract. If a contract is awarded, the Contractor
25 is not guaranteed to receive a specified minimum amount of work during the Contract
26 Term. The Maximum Contract Value is \$5,700,000.00. The Contractor is not guaranteed
27 to receive this volume of Work Orders. The Owner has no obligation to issue Work
28 Orders in excess of the Minimum Contract Value.

29
30 The Contractor shall perform all work required, necessary, proper for or incidental to
31 completing the Detailed Scope of Work called for in each individual Work Order issued
32 pursuant to this Contract for the Unit Prices set forth in the Construction Task Catalog®
33 and the following Adjustment Factors:

- 34
35 1. County / State-funded Projects – Normal Working Hours (7:00am to 5:00pm Monday
36 through Friday)
37
38
39 2. County / State-funded Projects – Other Than Normal Working Hours (5:00pm to
40 7:00am Monday through Friday, and all day Saturday, Sunday, and Holidays)
41
42
43 3. Federally-funded Projects – Normal Working Hours (7:00am to 5:00pm Monday
44 through Friday)
45
46
47 4. Federally-funded Projects – Other Than Normal Working Hours (5:00pm to 7:00am
48 Monday through Friday, and all day Saturday, Sunday, and Holidays)
49
50
51 5. County / State-funded Projects in Secure Facilities – Normal Working Hours (7:00am
52 to 5:00pm Monday through Friday)
53

1
2 6. County / State-funded Projects in Secure Facilities – Other Than Normal Working
3 Hours (5:00pm to 7:00am Monday through Friday, and all day Saturday, Sunday,
4 and Holidays)
5

6 **Material price spike adjustment:** For the purpose of this clause, a “major spike” is
7 defined as a spike in a specific material cost of more than 25% above what the cost of
8 that material was on the date the Construction Task Catalog® was issued.
9

- 10 1. In the event a major spike occurs in a specific material cost, the Contractor may
11 submit a request for a price modification to a Unit Price or individual Job Order.
12 In order to initiate such a request, the Contractor shall:
13 a. identify the specific material that has experienced a major spike,
14 b. identify Pre-priced Task(s) or Job Orders that require the material
15 experiencing a major spike, and
16 c. demonstrate that the spike exists by submitting a minimum of three quotes
17 on material supplier letterhead to show that the current price meets the
18 “major spike” definition above.
19
- 20 2. Fresno County, after review of a request, may elect to adjust the Unit Price or Job
21 Order by considering it a Non Pre-priced (NPP) item. The adjustment will be for
22 the difference between the material cost at the time the Construction Task
23 Catalog® was issued times the quantity stated in the Job Order. The adjustment
24 will not include any other markup, and the NPP adjustment factor will not apply.
25

26 **ARTICLE V. TERM:** The Term of the Job Order Contract shall be for one (1) year, or
27 when issued Work Orders totaling the Maximum Contract Value have been completed,
28 whichever occurs first. All Work Orders shall be issued, but not necessarily completed
29 within one calendar year after the commencement date of this Agreement.
30

31 All Work Orders for which a Notice to Proceed is issued by the County Contract Manager
32 during the term of this Contract shall be valid and in effect notwithstanding that the
33 Detailed Scope of Work may be performed, payments may be made, and the guarantee
34 period may continue, after the Contract Term has expired. All terms and conditions of
35 the Contract apply to each Work Order. No notices to proceed will be issued after 5:00,
36 P.M. on the final day of the Contract Term.
37

38 **ARTICLE VI.** The Contractor and the Owner agree that changes in this Agreement shall
39 become effective only when written in the form of an amendment approved and signed
40 by the Owner and the Contractor.
41

42 The Contractor and the Owner agree that the Owner shall have the right to request any
43 alterations, deviations, reductions or additions to the Detailed Scope of Work of the
44 individual Work Orders or specifications or any of them, and the amount of the cost
45 thereof shall be handled by issuance of a Supplemental Work Order.
46

47 This contract shall be deemed completed when the work of all individual Work Orders is
48 finished in accordance with all Contract Documents as amended by such changes. No
49 such change or modification shall release or exonerate any surety upon any guaranty or
50 bond given in connection with this contract.
51
52

1 **ARTICLE VII.** In the event of a dispute between the Owner or Project Manager and the
2 Contractor as to an interpretation of any of the specifications or as to the quality of
3 sufficiency of material or workmanship, the decision of the Project Manager shall for the
4 time being prevail and the Contractor, without delaying the job, shall proceed as directed
5 by the Project Manager without prejudice to a final determination by negotiation,
6 arbitration by mutual consent or litigation and should the Contractor be finally determined
7 to be either wholly or partially correct, the Owner shall reimburse him for any added costs
8 they may have incurred by reason of work done or material supplied beyond the terms
9 of the contract as a result of complying with the Project Manager's directions as
10 aforesaid. In the event the Contractor shall neglect to prosecute the work properly or
11 fail to perform any provisions of this contract, the Owner, after three days' written notice
12 to the Contractor, may, without prejudice to any other remedy it may have, make good
13 such deficiencies and may deduct the cost thereof from the payment then or thereafter
14 due to the Contractor, subject to final settlement between the parties as in this paragraph
15 hereinabove provided.
16

17 **ARTICLE VIII. TERMINATION:** If the Contractor should be adjudged a bankrupt, or if
18 they should make a general assignment for the benefit of their creditors, or if a receiver
19 should be appointed on account of their insolvency, or if they or any of their
20 subcontractors should persistently violate any of the provisions of the contract, or if they
21 should persistently or repeatedly refuse or should fail, except in cases for which
22 extension of time is provided, to supply enough properly skilled workmen or proper
23 material, or if they should fail to make prompt payment to subcontractors or for material
24 or labor or persistently disregard laws, ordinances or the instructions of the Project
25 Manager, then the Owner may, upon the certificate of the Project Manager, when
26 sufficient cause exists to justify such action, serve written notice upon the Contractor
27 and their surety of its intention to terminate the contract, such notice to contain the
28 reasons for such intention to terminate the contract, and unless within five (5) days after
29 the serving of such notice, such violations shall cease and satisfactory arrangements for
30 correction thereof be made, the contract shall, upon the expiration of said five days,
31 cease and terminate.
32

33 In the event of any such termination, the Owner shall immediately serve written notice
34 thereof upon the surety and the Contractor, and the surety shall have the right to take
35 over and perform the contract, provided, however, that if the surety within ten (10) days
36 after the serving upon it of notice of termination does not give the Owner written notice
37 of its intention to take over and perform the contract or does not commence performance
38 thereof within the ten (10) days stated above from the date of the serving of such notice,
39 the Owner may take over the work and prosecute the same to completion by contract or
40 by any other method it may deem advisable for the account and at the expense of the
41 Contractor, and the Contractor and their surety shall be liable to the Owner for any
42 excess cost occasioned the Owner thereby, and in such event the Owner may without
43 liability for so doing, take possession of and utilize in completing the work, such
44 materials, appliances, plant and other property belonging to the Contractor as may be
45 on the site or the work and necessary therefore. In such case, the Contractor shall not
46 be entitled to receive any further payment until the work is finished.
47

48 If the unpaid balance of the contract price shall exceed the expense of finishing the work,
49 including compensation for additional managerial and administrative services, such
50 excess shall be paid to the Contractor. If such expense shall exceed such unpaid
51 balance, the Contractor shall pay the difference to the Owner. The expense incurred by
52 the Owner as herein provided, and damage incurred through the Contractor's default,
53 shall be certified by the Project Manager.

1 **ARTICLE IX.** The Contractor and their subcontractors shall comply with Sections 1770
2 – 1780 of the California Labor Code and the provisions of Sections 2.52 and 2.55 of the
3 General Conditions concerning the payment of wages to all workers and mechanics,
4 and the employment and payment of apprentices by the Contractor or any subcontractor
5 for all work performed under this Agreement.
6

7 **ARTICLE X.** The Contractor and their subcontractors shall comply with Sections 1810
8 to 1815 of the California Labor Code and the provisions of Section 2.51 of the General
9 Conditions, concerning hours of work and payment of overtime compensation for all
10 work performed under this Agreement.
11

12 **ARTICLE XI. INDEMNIFICATION:** To the fullest extent permitted by law, Contractor
13 agrees to and shall indemnify, save, hold harmless and at County's request, defend
14 County and its officers, agents and employees, and the Project Manager and their
15 respective officers, agents and employees, from any and all costs and expenses,
16 attorney fees and court costs, damages, liabilities, claims and losses occurring or
17 resulting to County, or the Project Manager in connection with the performance, or failure
18 to perform, by Contractor, its officers, agents or employees under this Agreement, and
19 from any and all costs and expenses, attorney fees and court costs, damages, liabilities,
20 claims and losses occurring or resulting to any person, firm or corporation who may be
21 injured or damaged by the performance, or failure to perform, of Contractor, its officers,
22 agents or employees under this Agreement. In addition, Contractor agrees to indemnify
23 County for Federal, State of California and/or local audit exceptions resulting from non-
24 compliance herein on the part of Contractor.
25

26 In any and all claims against the County, the Project Manager, or any of their respective
27 officers, agents or employees, initiated by any employee of the Contractor, any
28 Subcontractor, anyone directly or indirectly employed by any of them or anyone for
29 whose acts any of them may be liable, the indemnification obligation set forth in the
30 immediately preceding paragraph shall not be limited in any way by any limitation on the
31 amount or type of damages, compensation or benefits payable by or for the Contractor
32 or any Subcontractor under workmen's compensation acts, disability benefit acts or other
33 employee benefit acts.
34

35 **ARTICLE XII. INSURANCE:** Without limiting the Owner's right to obtain indemnification
36 from Contractor or any third parties, Contractor, at its sole expense, in accordance with
37 the provisions of Section 2.40 of the General Conditions, shall maintain in full force and
38 effect the following insurance policies throughout the term of this Agreement, excepting
39 only those policies for which a longer term is specified:
40

41
42 A. Commercial General Liability Insurance, with scope and amount of coverage
43 as specified in Section 2.40 E.2 of the General Conditions.
44

45 B. Automobile Liability Insurance, with scope and amount of coverage as specified in
46 Section 2.40 E.2 of the General Conditions.
47

48 C. Professional Liability Insurance, with scope and amount of coverage as specified in
49 Section 2.40 E.3 of the General Conditions.
50

51 D. Worker's Compensation Insurance, with scope and amount of coverage as
52 specified in Section 2.40 E. 4 of the General Conditions.

1
2 The Certificate of Insurance shall be issued in triplicate, to the COUNTY OF FRESNO,
3 and all other participating agencies, whether or not said agencies are named herein,
4 who contribute to the cost of the work or have jurisdiction over areas in which the work
5 is to be performed and all officers and employees of said agencies while acting within
6 the course and scope of their duties and responsibilities.
7

8 **ARTICLE XIII. MISCELLANEOUS PROVISIONS:**
9

10 1. AUDITS AND INSPECTIONS: The CONTRACTOR shall at any time
11 during business hours, and as often as the OWNER may deem necessary, make
12 available to the OWNER for examination all of its records and data with respect to the
13 matters covered by this Agreement. The CONTRACTOR shall, upon request by the
14 OWNER, permit the OWNER to audit and inspect all of such records and data necessary
15 to ensure CONTRACTOR'S compliance with the terms of this Agreement.
16 If this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be
17 subject to the examination and audit of the Auditor General for a period of three (3) years
18 after final payment under contract (Government Code Section 8546.7).
19

20 2. INDEPENDENT CONTRACTOR.
21

22 In performance of the work, duties, and obligations assumed by
23 CONTRACTOR under this Agreement, it is mutually understood and agreed that
24 CONTRACTOR, including any and all of CONTRACTOR officers, agents, and
25 employees will at all times be acting and performing as an independent
26 contractor, and shall act in an independent capacity and not as an officer, agent,
27 servant, employee, joint venture, partner, or associate of the OWNER.
28 CONTRACTOR and OWNER shall comply with all applicable provisions of law
29 and the rules and regulations, if any, of governmental authorities having
30 jurisdiction over matters of the subject thereof. Because of its status as an
31 independent contractor, CONTRACTOR shall have absolutely no right to
32 employment rights and benefits available to OWNER's employees.
33 CONTRACTOR shall be solely liable and responsible for providing to, or on
34 behalf of, its employees all legally-required employee benefits. In addition,
35 CONTRACTOR shall be solely responsible and save OWNER harmless from all
36 matters related to payment of CONTRACTOR's employees, including
37 compliance with social security, withholding, and all other regulations governing
38 such matters. It is acknowledged that during the term of this Agreement,
39 CONTRACTOR may be providing services to others unrelated to the OWNER or
40 to this Agreement.
41

42 3. DISCLOSURE OF SELF-DEALING TRANSACTIONS
43

44 **This provision is only applicable if the CONTRACTOR is operating as a**
45 **corporation (a for-profit or non-profit corporation) or if during the term of the**
46 **agreement, the CONTRACTOR changes its status to operate as a corporation.**
47

48 **Members of the CONTRACTOR's Board of Directors shall disclose any self-**
49 **dealing transactions that they are a party to while CONTRACTOR is providing**
50 **goods or performing services under this agreement. A self-dealing transaction**

1 shall mean a transaction to which the CONTRACTOR is a party and in which one
2 or more of its directors has a material financial interest. Members of the Board of
3 Directors shall disclose any self-dealing transactions that they are a party to by
4 completing and signing a Self-Dealing Transaction Disclosure Form, attached
5 hereto as Exhibit A and incorporated herein by reference, and submitting it to the
6 OWNER prior to commencing with the self-dealing transaction or immediately
7 thereafter.
8

9 **ARTICLE XIV.** The Contractor represents that they have secured the payment of
10 Workers Compensation in compliance with the provisions of the Labor Code of the State
11 of California and Paragraphs B.3, C.3 and E.4 of Section 2.40 of the General Conditions,
12 and that they will continue so to comply with such statutory and contractual provisions
13 for the duration and entirety of the performance of the work contemplated herein.
14

15 **ARTICLE XV. USE OF UNITED STATES FLAG VESSELS:** The Contractor agrees:
16 (1) To utilize privately owned United States-flag commercial vessels to ship at least 50
17 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners,
18 and tankers) involved, whenever shipping any equipment, material, or commodities
19 pursuant to this contract, to the extent such vessels are available at fair and reasonable
20 rates for United States-flag commercial vessels.
21

22 "(2) To furnish within 20 days following the date of loading for shipments originating
23 within the United States or within 30 working days following the date of loading for
24 shipments originating outside the United States, a legible copy of a rated, 'on-board'
25 commercial ocean bill-of-lading in English for each shipment of cargo described in
26 paragraph (1) of this section to both the Contracting Officer (through the prime contractor
27 in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office
28 of Market Development, Maritime Administration, Washington, DC 20590.
29

30 "(3) To insert the substance of the provisions of this clause in all subcontracts issued
31 pursuant to this contract.
32

1 This Contract, **22-J-**____, was awarded by the Board of Supervisors on
2 _____. It has been reviewed by the Department of Public Works and
3 Planning and is in proper order for signature of the Chairman of the Board of
4 Supervisors.
5

6
7 IN WITNESS WHEREOF, they have executed this Agreement this _____
8 day of _____, 2023
9

10
11
12
13
14 _____
15 (CONTRACTOR)

_____ COUNTY OF FRESNO _____
(OWNER)

16
17
18 By _____
19
20 Title _____
21

By _____
Sal Quintero, Chairman
of the Board of Supervisors of the
County of Fresno

22
23 **ATTEST:**
24 Bernice E. Seidel
25 Clerk of the Board of Supervisors
26 County of Fresno, State of
27 California
28

29 FOR ACCOUNTING USE ONLY
30 VARIOUS ORGS.
31 0001/8830/10000/7295
32 0001/43601150/10000/7295
33 0001/8852/10000/7295
34

By _____
Deputy

35
END OF SECTION

CONTRACT: JOB ORDER CONTRACT

CONTRACT NO: #22-J-02, 22-J-03, 22-J-044, Class B

(This guaranty shall be executed by the successful bidder in accordance with Section 2.32 of the General Conditions. The bidder may execute the guaranty on this page at the time of submitting the bid.)

G U A R A N T Y

To the Owner: County of Fresno

The undersigned guarantees the construction and installation of the following work included in this project:

ALL WORK

Should any of the materials or equipment prove defective or should the work as a whole prove defective, due to faulty workmanship, material furnished or methods of installation, or should the work or any part thereof fail to operate properly as originally intended and in accordance with each individual Work Order Detailed Scope of Work and specifications, due to any of the above causes, all within twelve (12) months after the date on which the Work Order under this contract is accepted by the Owner, the undersigned agrees to reimburse the Owner, upon demand, for its expenses incurred in restoring said work to the condition contemplated in said project, including the cost of any such equipment or materials replaced and the cost of removing and replacing any other work necessary to make such replacement or repairs, or, upon demand by the Owner, to replace any such material and to repair said work completely without cost to the Owner so that said work will function successfully as originally contemplated.

The Owner shall have the unqualified option to make any needed replacement or repairs itself or to have such replacements or repairs done by the undersigned. In the event the Owner elects to have said work performed by the undersigned, the undersigned agrees that the repairs shall be made and such materials as are necessary shall be furnished and installed within a reasonable time after the receipt of demand from the Owner. If the undersigned shall fail or refuse to comply with his obligations under this guaranty, the Owner shall be entitled to all costs and expenses reasonably incurred by reason of said failure or refusal.

(Company)

By: _____

(Title)

Date: _____

END OF SECTION

1 GENERAL CONDITIONS

2
3
4 2.01 IDENTIFICATION OF CONTRACT

- 5
6 A. The Agreement shall be signed by the Contractor and the Owner.
7
8 B. The Contract Documents are defined in ARTICLE II of the Agreement.
9
10 C. The Contract Documents form the Contract for Construction (“Contract”). This
11 Contract represents the entire and integrated agreement between the parties
12 hereto and supersedes all prior negotiations, representations or agreements,
13 either written or oral. The Contract may be amended or modified only by a
14 Modification as defined above. The Contract Documents shall not be construed
15 to create any contractual relationship of any kind between the Architect or
16 Engineer of record and the Contractor, but the Architect or Engineer of record
17 shall be entitled to performance of the obligations of the Contractor intended for
18 their benefit and to enforcement thereof. Nothing contained in the Contract
19 Documents shall create any contractual relationship between the Owner and any
20 Subcontractor or Sub-subcontractor.
21

22
23 2.02 EXECUTION, CORRELATION, AND INTENT OF CONTRACT DOCUMENTS

- 24
25 A. The Contract Documents are complementary and anything called for by one shall
26 be supplied as if called for by all, providing it comes clearly within the scope of the
27 Contract.
28
29 B. In the event of conflicting provisions within the Job Order Contract, the following
30 order of precedence with item “1” representing the highest precedence, for
31 resolution of the conflict shall apply:
32
33 1. Agreement
34 2. Addenda (later takes precedence over earlier)
35 3. Work Orders (including Detailed Scopes of Work and Requests for
36 Proposals)
37 4. Project Manual
38 5. The Construction Task Catalog®
39 6. Technical Specifications
40
41 C. The intent of the Contract Documents is to include all items necessary for the
42 proper execution and completion of the Work. Words and abbreviations that have
43 well-known technical or trade meanings are used in the Contract Documents in
44 accordance with such recognized meanings.
45
46 D. Execution of the Contract by the Contractor is a representation that the Contractor
47 has become familiar with the local conditions under which the Work is to be
48 performed, and has correlated personal observations with the requirements of the
49 Contract Documents.
50

- 1 E. All work and material shall be the best of the respective kinds specified or
2 indicated. Should any workmanship or materials be required that are not directly
3 or indirectly called for in the Contract Documents, but which nevertheless are
4 necessary for proper fulfillment of the obvious intent thereof, said workmanship or
5 materials shall be the same for similar parts that are detailed, indicated or
6 specified, and the Contractor shall understand the same to be implied and provide
7 for it in his/her tender as if it were particularly described or delineated.
8
9

10 2.03 OWNERSHIP AND USE OF DOCUMENTS
11

12 All Contract Documents and copies thereof furnished shall remain the property of the
13 Owner. With the exception of one (1) contract set for each party to the Contract, such
14 documents are to be returned by Contractor or suitably accounted for to the Owner on
15 request at the completion of the Work. Submission or distribution to meet official
16 regulatory requirements or for other purposes in connection with the Project is not to be
17 construed as publication in derogation of the Architect's common law copyright or other
18 reserved rights. The Owner's use of the documents will not increase the Architect's design
19 liability beyond the Project and the site for which the design was originally intended.
20

21
22 2.04 DEFINITIONS
23

24 The following words, or variations thereof, as used in these documents have meanings
25 as defined:
26

- 27 A. The Work - The Work comprises the completed construction required of the
28 Contractor by the Contract Documents, and includes all labor, materials,
29 equipment and services necessary to produce such construction, and all
30 materials, other permits and equipment incorporated or to be incorporated in such
31 construction.
32
- 33 B. The Project – The collective improvements to be constructed by the Contractor
34 pursuant to a Work Order, or a series of related Work Orders.
35
- 36 C. Owner - The County of Fresno, State of California, as represented by the Fresno
37 County Board of Supervisors and so named in the Agreement. The term Owner
38 means the Owner or the Owner's authorized representative (also known as the
39 Project Manager) for this project.
40
- 41
- 42 D. Architect of record – The Owner and his/her authorized representative, as
43 defined in Section 2.04C, or a duly California licensed Architect.
44
- 45 E. Contractor - When used in the General Conditions refers to person(s) or entity
46 (partnership or corporation) so named in Agreement and when used in the body
47 of the Specifications, refers to the Contractor for that specific work, whether it be
48 the General Contractor, Subcontractor, or other Contractor. The term Contractor
49 means the Contractor or the Contractor's authorized representative.
50

- 1 F. Subcontractor - Person, persons, entity, co-partnership or corporation having
2 direct contract with Contractor to perform any of the Work at the site. The term
3 Subcontractor means a Subcontractor or a Subcontractor's authorized
4 representative. The term Subcontractor does not include any separate contractor
5 or any separate contractor's subcontractors.
6
- 7 G. Sub-subcontractor – Person, persons, entity, co-partnership or corporation having
8 a direct or indirect contract with a Subcontractor to perform any of the Work at the
9 site (i.e. a second-tier, third-tier or lower-tier Subcontractor). The term Sub-
10 sub-subcontractor means a Sub-subcontractor or an authorized representative
11 thereof.
12
- 13 H. Adjustment Factor – A competitively bid adjustment to be applied to the unit prices
14 listed in the Construction Task Catalog®.
15
- 16 I. Construction Task Catalog®- A comprehensive listing of construction related tasks
17 together with a specific unit of measure and a published Unit Price.
18
- 19 J. Detailed Scope of Work – A document setting forth the work the Contractor is
20 obligated to complete for a particular Work Order.
21
- 22 K. Work Order – A written order issued by the Owner, such as a Purchase Order,
23 requiring the Contractor to complete the Detailed Scope of Work within the Work
24 Order Completion Time for the Work Order Price. A project may consist of one or
25 more Work Orders.
26
- 27 L. Work Order Completion Time – The time within which the Contractor must
28 complete the Detailed Scope of Work.
29
- 30 M. Work Order Price – The amount a Contractor will be paid for completing a Work
31 Order.
32
- 33 N. Joint Scope Meeting – A site meeting attended by the Owner and Contractor to
34 discuss the work before the Detailed Scope of Work is finalized.
35
- 36 O. Maximum Contract Value - The maximum value of Work Orders that the
37 Contractor may receive under this Contract.
38
- 39 P. Minimum Contract Value – The minimum value of Work Orders that the Contractor
40 is guaranteed the opportunity to perform under this Contract.
41
- 42 Q. Non Pre-priced Task – An item of work required by the Detailed Scope of Work
43 but not included in the Construction Task Catalog®.
44
- 45 R. Normal Working Hours – Includes the hours from 7:00 a.m. to 5:00 p.m. Monday
46 through Friday, except for Owner holidays.
47
- 48 S. Notice to Proceed - A written notice issued by the Owner directing the Contractor
49 to proceed with construction activities to complete the Work Order.
50

- 1 T. Other than Normal Working Hours – Includes the hours of 5:00 p.m. to 7:00 a.m.
2 Monday through Friday and all day Saturday, Sunday, and Owner Holidays.
3
- 4 U. Pre-priced Task – An item of work included in the Construction Task Catalog® for
5 which a Unit Price is given.
6
- 7 V. Price Proposal – A price proposal prepared by the Contractor that includes the
8 Pre-priced Tasks, Non Pre-priced Tasks, appropriate quantities and appropriate
9 Adjustment Factors required to complete the Detailed Scope of Work.
10
- 11 W. Proposal Package – A set of documents including at least: (1) a Price Proposal;
12 (2) a proposed construction schedule; (3) a list of proposed subcontractors; (4)
13 sketches, drawings, or layouts; and (5) technical data or information on proposed
14 materials or equipment.
15
- 16 X. Request for Proposal – A written request to the Contractor to prepare a Proposal
17 for the Detailed Scope of Work referenced therein.
18
- 19 Y. Supplemental Work Order - A Work Order issued to add or delete Work from an
20 existing, related Work Order.
21
- 22 Z. Technical Specifications – Contains the written requirements for materials,
23 equipment, systems, standards and workmanship for the Work, and performance
24 of related services.
25
- 26 AA. Unit Price - The price published in the Construction Task Catalog® for a specific
27 construction or construction related work task. Unit Prices for new Pre-priced
28 Tasks can be established during the course of the Contract and added to the
29 Construction Task Catalog®. Each Unit Price is comprised of labor, equipment,
30 and material costs to accomplish that specific Pre-priced Task.
31
- 32 BB. Days- All days shall be measured in calendar days unless specifically noted
33 otherwise in these documents or referenced codes.
34
- 35 CC. Year- One year shall be measured in terms of 365 calendar days.
36

37
38 2.05 SPECIFICATIONS AND DRAWINGS
39

- 40 A. Precedence – Anything mentioned in the Specifications and not shown on the
41 Drawings, or shown on the drawings and not mentioned in the specifications, shall
42 be of like effect as if shown or mentioned in both. Subject to Section 2.02, in cases
43 of discrepancy concerning dimension, quantity and location, the Drawings shall
44 take precedence over the Specifications. Explanatory notes on the Drawings shall
45 take precedence over conflicting drawn indications. Large scale details shall take
46 precedence over smaller scale details and figured dimensions shall take
47 precedence over scaled measurement. Where figures are not shown, scale
48 measurements shall be followed but shall in all cases be verified by measuring
49 actual conditions of Work already in place. In cases of discrepancy concerning
50 quality and application of materials and non-technical requirements over
51 materials, the specifications shall take precedence over Drawings.

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- B. Division of Specifications - For convenience of reference and to facilitate the letting of independent contracts, this specification may be separated into certain sections; such separation shall not operate to oblige the Owner, Architect or Professional Consultant to establish the limits of any contract between the Contractor and Sub-Contractor each of whom shall depend upon his/her own contract stipulations. The General Conditions apply with equal force to all work, including extra work.
- C. Governing Factors - Dimensions figured on drawings shall be followed in every case in preference to scale of drawings.
- D. Discrepancies - Should the Contractor, at any time, discover a discrepancy in a drawing or specification, or any variation between dimensions on drawings and measurements at site, or any lacking of dimensions or other information, he/she shall report at once to the Project Manager requesting clarification and shall not proceed with the work affected thereby until such clarification has been made. If the Contractor proceeds with work affected by such discrepancies, without having received such clarification, he/she does so at his/her own risk. Any adjustments involving such circumstances made by the Contractor, prior to approval by the Project Manager, shall be at the Contractor's risk and the settlement of any complications or disputes arising therefrom shall be at the Contractor's sole expense and Contractor shall indemnify, hold harmless and defend Owner, Owner's representatives, and Project Manager from any liability or loss with respect to said adjustments.
- E. Scope of Drawings – When drawings are included in the Detailed Scope of Work, the drawings shall be held to determine the general character of the Work as well as its details. Parts not detailed shall be constructed in accordance with best standard practice for work of this class, so as to afford the requisite strength and logically complete the parts they compose. Where it is obvious that a drawing illustrates only a part of a given work or of a number of items, the remainder shall be deemed repetitious and so construed. The Contractor shall be responsible for all errors made in using any drawings which have been superseded.
- F. Shop Drawings, Product Data and Samples –
 - 1. Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or any Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work. Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate a material, product or system for some portion of the Work. Samples are physical examples that illustrate materials, equipment or workmanship, and establish standards by which the work will be judged.
 - 2. The Contractor shall prepare, review, approve and submit to the Project Manager, with reasonable promptness and in such sequence as to cause no delay in the Work or in the work of the Owner or any separate

1 contractor, all Shop Drawings, Product Data and Samples required by the
2 Contract Documents.

- 3
- 4 3. By preparing, approving and submitting Shop Drawings, Product Data and
5 Samples, the Contractor represents that the Contractor has determined
6 and verified all materials, field measurements and field construction
7 criteria related thereto, or will do so with reasonable promptness, and has
8 checked and coordinated the information contained within such submittals
9 with the requirements of the Work, the Project, the Work Order and the
10 Contract Documents.
- 11
- 12 4. The Contractor shall not be relieved of responsibility for any deviation from
13 the requirements of the Contract Documents by the Architect's review of
14 Shop Drawings, Product Data or Samples, unless the Contractor has
15 specifically informed the Project Manager in writing of such deviation at
16 the time of submission and the Architect has reviewed the specific
17 deviation. The Contractor shall not be relieved from responsibility for
18 errors or omissions in the Shop Drawings, Product Data or Samples by
19 the Architect's review of them.
- 20
- 21 5. When professional certification of performance criteria of materials,
22 systems or equipment is required by the Contract Documents, the
23 Architect shall be entitled to rely upon the accuracy and completeness of
24 such calculations and certifications. The cost of such certifications shall be
25 borne by the Contractor. Owner may elect to have an independent
26 certification performed at its own expense. The Owner shall have final
27 approving authority for performance-based items.
- 28
- 29 6. The Contractor shall direct specific attention, in writing or on resubmitted
30 Shop drawings, Product Data, or Samples, to revisions other than those
31 requested by the Architect on previous submittals.
- 32
- 33 7. No portion of the Work requiring submission of a Shop Drawing, Product
34 Data or Sample shall be commenced until the submittal has been reviewed
35 by the Architect. All such portions of the Work shall be in accordance with
36 reviewed submittals.
- 37
- 38 8. Submission of Shop Drawings and Samples to the Project Manager is
39 required for only those items specifically mentioned in the Specification
40 Sections. If Contractor submits Shop Drawings for items other than the
41 above, the Project Manager will not be obligated to distribute or review
42 them. Contractor shall be responsible for the procuring of Shop Drawings
43 for his/her own use as he/she may require for the progress of the Work.
- 44
- 45 9. The term "Shop Drawings" as used herein also includes but is not limited
46 to fabrication, erection, layout and setting drawings, manufacturer's
47 standard drawings, descriptive literature, catalogs, brochures,
48 performance and test data, wiring and control diagrams, all other drawings
49 and descriptive data pertaining to materials, equipment, piping, duct and
50 conduit systems, and methods of construction as may be required to show
51 that the materials, equipment or systems and the positions and layout of

1 each conform to the Contract requirements. As used herein the term
2 "manufactured" applies to standard units usually mass-produced, and the
3 term "fabricated" means items specifically assembled or made out
4 of- selected materials to meet individual design requirements. Shop
5 Drawings shall establish the actual detail of all manufactured or fabricated
6 items; indicate proper relation to adjoining work; amplify design details of
7 mechanical and electrical equipment in proper relation to physical spaces
8 in the structure; and incorporate minor changes of design or construction
9 to suit actual conditions.

10
11 10. Drawings: Following Contractor's review and approval, Contractor shall
12 submit to the Project Manager for approval four (4) minimum to six (6)
13 maximum prints and/or pdf submission of the same information via email.
14 (Required delivery methods and quantities of submittals will be determined
15 at the time of the Pre-Construction Meeting). The Project Manager will
16 check the submittal to see if it is complete. If complete, the Project
17 Manager will forward the drawings to the Owner and the Architect. The
18 Architect and Owner will check the drawings and note Architect and Owner
19 comments and affix a stamp to the drawings indicating the status of
20 acceptance, and will return same to the Project Manager, each retaining
21 prints for his/her records. The Architect or his/her consultants, as
22 applicable, will review the Shop Drawings; mark the prints with required
23 revisions; stamp the prints and indicate "No Exceptions Taken", "Make
24 Corrections Noted", "Revise and Resubmit", "Submit Specified Item", or
25 "Rejected", and return the prints. The Project Manager will return the prints
26 to the Contractor. The Contractor shall then print and distribute the
27 appropriate number of copies to his/her job personnel as required. If a
28 drawing is stamped "Rejected" or "Revise and Resubmit", the Contractor
29 shall correct and resubmit as outlined above. When stamped "Make
30 Corrections Noted", or similar instructions, the Contractor shall correct and
31 resubmit for record only, three (3) prints of each drawing. Also see
32 Technical Specifications, Division I, General Requirements.

33
34 11. Samples: Following Contractor's review and approval, Contractor shall
35 submit to the Architect, five (5) minimum samples of all materials in
36 quantities and sizes as specified herein as requested by the Architect.
37 Submittals shall be given to the Architect at a time determined by the
38 Contractor, which allows for any necessary resubmittal and which will not
39 cause any delay in the Work. Samples will be forwarded to the Architect.
40 If a sample is stamped "Rejected" or "Revise and Resubmit", one sample
41 so noted will be returned to the Contractor. The Contractor shall correct
42 and resubmit as outlined above. If a sample is stamped "Make Corrections
43 Noted", one sample so noted will be returned. Corrected samples shall be
44 resubmitted for approval as per the original submittal. Also see Technical
45 Specifications and General Requirements.

46
47 12. Brochures: Following Contractor's review and approval, Contractor shall
48 submit to the Architect, five (5) copies of all manufacturer's catalogs or
49 brochures as required. Brochures will be forwarded to the Architect for
50 review. If a brochure is stamped "No Exception Taken", two (2) copies will
51 be returned to the Contractor. If stamped "Rejected", one marked copy

1 and two (2) unmarked copies will be returned. Corrected copies shall be
2 resubmitted for approval as per the original submittal. Also see General
3 Requirements.
4

5 13. Manufacturer's Instructions: Where any item or work is required by
6 Specifications to be furnished, installed or performed in accordance with a
7 specified product manufacturer's instructions, Contractor shall procure
8 and distribute the necessary copies of such instructions to all concerned
9 parties.
10

11 G. Materials - All materials, unless otherwise specified, shall be new and of good
12 quality, proof of which shall be furnished by the Contractor; in case of doubt as to
13 kind or quality required, samples shall be submitted to the Architect through the
14 Project Manager who will specify the kind and use of the material appropriate to
15 the location and the function of the item in question. Contractor shall furnish such
16 item accordingly. Before final payment, all material rejected by the Architect or
17 Project Manager shall be promptly removed from the premises by the Contractor,
18 whether or not completely installed, and promptly and properly replaced with
19 correct materials, including any other work adjoining if disturbed, in accordance
20 with the contract and without expense to the Owner; the Contractor also shall pay
21 for work of other Contractors as is affected by such removals and replacements.
22

23 24 2.06 THE ARCHITECT

- 25
- 26 A. The Owner may delegate all or a portion of its rights and responsibilities to a
27 licensed Architect as deemed necessary per Work Order.
28
- 29 B. The Architect advises the Project Manager in all aspects of the construction
30 phase of the Project. The Architect's functions include advice and assistance to
31 the Project Manager in the correct interpretation and application of the Contract
32 Documents. The Architect is not authorized independently to issue Addenda,
33 Clarifications, Field Orders, Work Authorizations, or Supplemental Work Orders,
34 or in any other way to bind the Owner in discussions with the Contractor.
35
- 36 C. The Contractor shall deliver all correspondence relating to the proper execution
37 of the Work to the Project Manager. The Project Manager reserves the right to
38 consult with the Architect and Owner prior to responding to the Contractor's
39 correspondence.
40
- 41 D. When discussions between the Contractor and the Project Manager occur either
42 on the site or elsewhere, but the Architect is not present, the Project Manager
43 reserves the right to consult with the Architect and Owner prior to issuing his/her
44 final decision or instruction.
45
- 46 E. The Architect shall review or take other appropriate action upon the Contractor's
47 submittals such as Shop Drawings, Product Data and Samples, but only for
48 conformance with the design concept of the Work and the information given in
49 the Contract Documents. Such action shall generally be taken within ten (10)
50 working days, however under certain circumstances such as very complex
51 submittals or if large number of submittals are submitted at one (1) time it may

1 take longer. In this case the Contractor will be notified and given the opportunity
2 to advise the Architect of priorities. The Architect's review of a specific item shall
3 not indicate review of an assembly of which the item is a component.
4
5

6 2.07 THE PROJECT MANAGER
7

- 8 A. The Project Manager is the authorized representative of the Owner in all aspects
9 of administering the construction contract on behalf of the Owner. All
10 communications from and to the Contractor will be channeled through the Project
11 Manager. However, the Project Manager does not have the authority to bind the
12 Owner in matters affecting adjustments to the time or cost of the project as defined
13 in the Agreement for Construction.
14
- 15 B. The Project Manager will be the Owner's representative during the construction
16 and warranty periods, and until final payment to all contractors is due. The Project
17 Manager will advise and consult with the Owner. All instructions to the Contractor
18 shall be forwarded through the Project Manager. The Project Manager will have
19 authority to act on behalf of the Owner only to the extent provided in the Contract
20 Documents, unless otherwise modified by written instrument.
21
- 22 C. The Project Manager will be on site during construction to monitor the progress
23 and quality of the Work and to determine in general if the Work is proceeding in
24 accordance with the Contract Documents. On the basis of on-site observations
25 and communication with the Contractor, the Project Manager will keep the Owner
26 informed of the progress of the Work, and will endeavor to guard the Owner
27 against defects and deficiencies in the Work of the Contractor.
28
- 29 D. The Project Manager shall at all times have access to the Work wherever it is in
30 preparation and progress. The Contractor shall provide facilities for such access
31 so that the Project Manager may perform its functions under the Contract
32 Documents.
33
- 34 E. Based on the Project Manager's observations, and an evaluation of the
35 Contractor's Application for Payment, the Project Manager will determine the
36 amount owing to the Contractor and will issue to the Owner Certificates for
37 Payment incorporating such amount.
38
- 39 F. The Project Manager will be the initial interpreter of the requirements of the
40 Contract Documents and the initial judge of the performance hereunder by the
41 Contractor. The Owner will have final authority of all such matters.
42
- 43 G. The Project Manager will render interpretations necessary for the proper
44 execution or progress of the Work, with reasonable promptness and in
45 accordance with agreed upon time limits. Either party to the Contract may make
46 written request to the Project Manager for such interpretations.
47
- 48 H. Claims, disputes and other matters in question between the Contractor and the
49 Project Manager relating to the execution or progress of the Work or the
50 interpretation of the Contract Documents shall be referred to the Owner (or his/her
51 designee).

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- I. All interpretations and decisions of the Project Manager will be in writing or in graphic form, and shall be both consistent with the intent of the Contract Documents and reasonably inferable therefrom.
- J. The Project Manager will have the authority to reject, or recommend to the Owner the rejection, of any work that does not conform to the Contract Documents. Whenever, in the Project Manager's opinion, it is considered necessary or advisable for the implementation of the intent of the Contract Documents, the Project Manager will have authority to require special inspection or testing of the Work whether or not such work be then fabricated, installed or completed.
- K. The Project Manager will receive from the Contractor and review all Shop Drawings, Product Data and Samples, and forward same to Architect and Owner for review.
- L. Following consultation with the Owner, the Project Manager will take appropriate action on changes, and will have authority to order minor changes in the Work as provided herein.
- M. The Project Manager will conduct inspections to determine the date of Completion, and will receive and forward to the Owner for the Owner's review written warranties and related documents required by the Contract Documents and assembled by the Contractor. The Project Manager will issue a final Project Certificate for Payment upon compliance with the requirements for completion and final payment. The Project Manager will monitor the warranty for a period of one (1) year from and after the date of acceptance of the Work, unless otherwise specified as a longer term.
- N. The duties, responsibilities and limitations of authority of the Project Manager as the Owner's representatives during construction as set forth in the Contract Documents, will not be modified or extended without written consent of the Owner, the Contractor and the Project Manager, which consent shall not be unreasonably withheld. Failure of the Contractor to respond within ten (10) business days to a written request shall constitute consent by the Contractor.
- O. In case of the termination of the employment of the Project Manager, the Owner may appoint a successor Project Manager, whose status and duties under the Contract Documents shall be the same as those of the former Project Manager.

2.08 OWNER

- A. Information and Services Required of the Owner
 - 1. Unless otherwise provided in the Contract Documents, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for the construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

1 2. Information or services under the Owner's control shall be furnished by the
2 Owner with reasonable promptness to avoid delay in the orderly progress
3 of the Work.

4
5 3. The Owner shall forward all instructions to the Contractor through the
6 Project Manager.

7
8 B. Owner's Right to Stop the Work
9

10 If the Contractor fails to correct defective work as required by Section 2.42 herein
11 or persistently fails to carry out the Work in accordance with the Contract
12 Documents, the Owner, by a written order signed personally or by an agent
13 specifically so empowered by the Owner in writing, may order the Contractor to
14 stop the Work, or any portion thereof, until the cause for such order has been
15 eliminated; however, this right of the Owner to stop the Work shall not give rise to
16 any duty on the part of the Owner to exercise this right for the benefit of any
17 contractor or any other person or entity, except to the extent required by Section
18 2.12.C.
19

20 C. Owner's Right to Carry Out the Work
21

22 If the Contractor defaults or neglects to carry out the Work in accordance with the
23 Contract Documents, and fails after written notice from the Owner to correct such
24 default or neglect with diligence and promptness, the Owner may, after an
25 additional written notice and without prejudice to any other remedy the Owner may
26 have, make good such deficiencies. In such case an appropriate Supplemental
27 Work Order shall be issued deducting from the payments then or thereafter due
28 the Contractor the cost of correcting such deficiencies, including compensation
29 for the additional services of the Architect or other professionals made necessary
30 by such default, neglect or failure. Such action by the Owner and the amount
31 charged to the Contractor are both subject to the prior approval of the Architect.
32 If the payments then or thereafter due the Contractor are not sufficient to cover
33 such amount, the Contractor shall pay the difference to the Owner, or Owner may
34 require payment by the surety on the performance or warranty bonds as
35 appropriate. Such action shall, in no way, affect the status of either party under
36 contract, nor be held as a basis of any claim by the Contractor for damages or
37 extension of time.
38

39 D. Award of Individual Work Orders
40

41 The Owner may award an individual Work Order to any selected Contractor.
42 Selection of the Contractor and award of the Work Order will be in compliance
43 with established Owner procedures and based on one or more of the following
44 criteria:

45
46 1. Rotational selection among all Contractors, unless otherwise determined
47 by the Owner.

48
49 2. Evaluation of past and current performance on Work Orders of a similar
50 nature and type of work, project size, construction management

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challenges, schedule performance, design management requirements, etc.

3. Balancing of work load (Work Order dollar volume and construction backlog) among Contractors.
4. Management of Work Order dollar volume within bonding limitations of the Contractor.
5. Price, as it relates to the Owner's independent cost estimate.
6. Contractor's responsiveness to the Owner on Work Orders.
7. Other appropriate criteria as deemed in the best interest of the Owner.

2.09 CONTRACTOR RESPONSIBILITIES

A. Procedure for Developing a Work Order

As the need exists, the Owner will notify the Contractor of a Project, schedule a Joint Scope Meeting and issue a Notice of Joint Scope Meeting. The Contractor shall attend the Joint Scope Meeting and discuss, at a minimum:

1. the general scope of the work;
2. alternatives for performing the work and value engineering;
3. access to the site and protocol for admission;
4. hours of operation;
5. staging area;
6. requirements for catalog cuts, technical data, samples and shop drawings;
7. requirements for professional services, sketches, drawings, and specifications;
8. construction duration;
9. liquidated damages;
10. the presence of hazardous materials;
11. date on which Proposal is due.

Upon completion of the joint scoping process, the Owner will prepare a draft Detailed Scope of Work referencing any sketches, drawings, photographs, and specifications required to document accurately the work to be accomplished. The Contractor shall review the Detailed Scope of Work and request any required

1 changes or modifications. When an acceptable Detailed Scope of Work has been
2 prepared, the Owner will issue a Request for Proposal that will require the
3 Contractor to prepare a Work Order Proposal. The Detailed Scope of Work,
4 unless modified by both the Contractor and the Owner, will be the basis on which
5 the Contractor will develop its Work Order Package and the Owner will evaluate
6 the same. The Contractor does not have the right to refuse to perform any task or
7 any work in connection with a particular Project.
8

9 The Owner may, at this option, include quantities in the Detailed Scope of Work if
10 it helps to define the Detailed Scope of Work, if the actual quantities required are
11 not known or cannot be determined at the time the Detailed Scope of Work is
12 prepared, if the Contractor and the Owner cannot agree on the quantities required,
13 or for any other reason as determined by the Owner. In all such cases, the Owner
14 shall issue a Supplemental Job Order adjusting the quantities appearing in the
15 Detailed Scope of Work to the actual quantities.
16

17 B. Preparation of the Price Proposal

18
19 The Contractor will prepare Price Proposals in accordance with the following:

- 20
21 1. Pre-priced Tasks: A Pre-priced Task is a task described and for which a
22 Unit Price is set forth in the Construction Task Catalog[®]. For Pre-priced
23 Tasks the Contractor shall identify the task and quantities required from
24 the Construction Task Catalog[®].
25
- 26 2. Non Pre-priced Tasks: Units of work not included in the Construction Task
27 Catalog[®], but within the general scope and intent of this Contract, may be
28 negotiated into this Contract as needs arise. Such work requirements
29 shall be incorporated into and made a part of this Contract for the Work
30 Order to which they pertain, and may be incorporated into the Construction
31 Task Catalog[®] if determined appropriate by the County at the negotiated
32 price. Non Pre-Priced Tasks shall be separately identified and submitted
33 in the Proposal.
 - 34 a. The Contractor shall break down any Non Pre-price item if the
35 labor, material or equipment required to accomplish the Non Pre-
36 priced task can be used out of the Construction Task Catalog[®] at
37 a pre-price rate times the Bidder's appropriate Adjustment Factor.
38 Whether a Work requirement is Pre-priced or Non Pre-priced is a
39 final determination by the County, binding and conclusive on the
40 Contractor.
41
 - 42 b. Information submitted in support of Non Pre-priced work shall
43 include, but not be limited to, the following: Complete
44 specifications and technical data, including work unit content, work
45 unit costs data, schedule requirements; quality control and
46 inspection requirements. Pricing data submitted in support of Non
47 Pre-Priced Tasks shall include a cost or price analysis report,
48 establishing the basis for selecting the approach proposed to
49 accomplish the requirements. Unless otherwise directed by the
50 County, cost data shall be submitted demonstrating that the
51

1 Contractor solicited and received three bids. The Contractor shall
2 provide an installed unit price (or demolition price if appropriate),
3 which shall include all costs required to accomplish the Non Pre-
4 priced Task.

- 5
6 c. The final price submitted for Non Pre-priced Tasks shall be
7 according to the following formula:
8

9 **Contractor Performed Duties**

10 A = The number of hours for each labor classification and hourly
11 rates

12 B = Equipment costs (other than small tools)

13 C = Three independent quotes for all materials

14 **Total Cost for self-performed work = (A+B+C) x Normal Hours**
15 **Adjustment Factor (Only if A & B cannot be priced out of the**
16 **Construction Task Catalog®)**

17 **For Work performed by Subcontractors:**

18 If the Work is to be subcontracted, the Contractor must submit
19 three independent bids from Subcontractors. If three quotes or
20 bids cannot be obtained, the Contractor will provide the reason in
21 writing for the County's approval as to why three quotes cannot be
22 submitted.

23 D = Subcontractor Costs (supported by three quotes)

24 **Total Costs of Non Pre-Priced Task = D x Normal Hours**
25 **Adjustment Factor**

- 26 d. After a Non Pre-priced Task has been approved by the Owner, the
27 Unit Price for such task will be established, and fixed as a
28 permanent Non Pre-priced Task which will no longer require price
29 justification.
30

- 31 e. The Owner's determination as to whether an item is a Pre-priced
32 Task or a Non Pre-priced Task shall be final, binding and
33 conclusive as to the Contractor.
34

- 35 3. Whenever, because of trade jurisdiction rules or small quantities, the cost
36 of a minor task in the Price Proposal is less than the cost of the actual
37 labor and material to perform such task, the Owner may permit the
38 Contractor to be paid for such task as a Non Pre-priced Task, or use Pre-
39 priced labor tasks and material component pricing to cover the actual costs
40 incurred. Provided, however, that there is no other work for that trade on
41 the Project or other work for that trade cannot be scheduled at the same
42 time and the final charge does not exceed \$1,000.
43

- 44 4. Contractor shall make the necessary arrangements for and obtain all
45 filings and permits required for the Work, including the preparation of all
46 drawings, sketches, calculations and other documents and information
47 that may be required therefor. If the Contractor is required to pay an

1 application fee for filing a project, a fee to obtain a building permit, or any
2 other permit fee to the City, State or some other governmental or
3 regulatory agency, then the amount of such fee paid by the Contractor for
4 which a receipt is obtained shall be treated as a Reimbursable Task to be
5 paid without mark-up. The cost of expediting services or equipment use
6 fees are not reimbursable.
7

8 5. Design requirements will be determined by the scope of work defined in
9 each Work Order. If the level of Architect/Engineer services for a Work
10 Order requires stamped plans and specifications for the development of
11 the Detailed Scope of Work, the Owner shall be responsible to prepare
12 them. As needed, the contractor may assist with the development of the
13 scope through one or more joint scope meetings and subsequent review
14 of the prepared documents. All shop drawings, submittals and similar
15 documents required in connection with a particular Work Order are
16 considered to be incidental to the Contract and included in the Contractor's
17 Adjustment Factors.
18

19 6. The Contractor's Price Proposal shall include, at a minimum:

- 20 a. Price Proposal;
- 21 b. Back Up for Non Pre-priced Tasks;
- 22 c. Any other documentation requested by the Owner.

23 7. The Contractor's Price Proposal shall be submitted by the date indicated
24 on the Request for Proposal. All incomplete Price Proposals shall be
25 rejected. The time allowed for preparation of the Contractor's Price
26 Proposal will depend on the complexity and urgency of the Work Order but
27 should average between seven (7) and fourteen (14) days. On complex
28 Work Orders, such as Work Orders requiring incidental
29 engineering/architectural drawings and approvals and permits, allowance
30 will be made to provide adequate time for preparation and submittal of the
31 necessary documents.
32

33 8. By submitting a Price Proposal to the Owner, the Contractor agrees to
34 accomplish the Detailed Scope of Work in accordance with the Request
35 for Proposal at the price submitted. It is the Contractor's responsibility to
36 include the necessary tasks and quantities in the Price Proposal and apply
37 the appropriate Adjustment Factor(s) prior to delivering it to the Owner.
38

39 9. If the Contractor requires clarifications or additional information regarding
40 the scope of work in order to prepare the Price Proposal, the request must
41 be submitted so that the submittal of the Price Proposal is not delayed.
42

43 C. Review of the Price Proposal

44 1. If the Owner finds the Contractor's Price Proposal unacceptable, the
45 Owner may request the Contractor to re-submit its Price Proposal or
46 cancel the Work Order. After the Owner has reviewed the Price Proposal
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1 and an agreement has been reached between the Owner and the
2 Contractor as to the nature of the revisions, if any, the Contractor is not
3 allowed to make any changes to the revised Price Proposal other than the
4 agreed upon changes. Unless otherwise specified by the Owner, if the
5 Contractor is required to resubmit the Price Proposal, the revised Price
6 Proposal is due no later than 48 hours after the changes have been agreed
7 upon.
8

9 2. The Contractor may choose the means and methods of construction;
10 subject however, to the Owner's right to reject any means and methods
11 proposed by the Contractor that:

- 12 a) Will constitute or create a hazard to the work, or to persons or
13 property; or
- 14 b) Will not produce finished Work in accordance with the terms of the
15 Contract; or
- 16 c) Unnecessarily increases the price of the Work Order when
17 alternative means and methods are available; or
- 18 d) Deviates from the Detailed Scope of Work.

19 3. Once the Price Proposal is accepted by the Owner (by issuance of a
20 Notice to Proceed through the Gordian System), the Work Order becomes
21 a firm fixed, lump sum contract. Unless specifically stated in the Detailed
22 Scope of Work, no adjustment in the proposed Pre-priced Tasks and Non
23 Pre-priced Tasks or quantities is allowed. Inspection of the Contractor's
24 Work shall be against the Detailed Scope of Work including any Technical
25 Specifications and Drawings, not against the Price Proposal.
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32 D. Preparation of the Proposal Package:

33 1. Time for Submittal: Upon acceptance of the Contractor's Price Proposal,
34 the Contractor will be required to submit the Proposal Package within five
35 (5) working days of said acceptance, unless otherwise specified by the
36 Owner. If the Contractor fails to meet the deadline for submittal of the
37 Proposal Package, the Owner may declare the Contractor in default and
38 initiate termination of the Work Order.
39
40

41 2. The Proposal Package shall include:

- 42 a. Price Proposal as agreed to
- 43 b. Final back-up for any Non Pre-priced Tasks (if applicable)
- 44 c. Subcontractor List, including:
 - 45 i. The name, license number and the location of the place of
46 business of each subcontractor who will perform work or
47 labor or render service to the general contractor in or
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about the construction of the work or improvement in an amount in excess of one-half (1/2) of one percent (1%) of the general contractor's total proposal amount, and

- ii. The portion of the work which will be done by each subcontractor.
- iii. The attention of bidders is directed to the provisions of Public Contract Code Section 4100 et seq which set forth the consequences and possible penalties which may result from a failure to comply strictly with the foregoing requirements for listing of subcontractors.
- d. Final drawings, calculations, specifications (if applicable)
- e. Final catalog cuts, (if applicable)
- f. Special insurance, (if applicable)
- g. For Special equipment and installations, a copy of the warranty document (if applicable)
- h. Any other documentation required for the Work Order as indicated on the RFP (if applicable)

3. By submitting a Proposal Package to the Owner, the Contractor is agreeing to accomplish the Work outlined in the Request For Proposal and the Detailed Scope of Work for that particular Work Order.

E. Review of the Proposal Package and Issuance of the Work Order:

- 1. The Owner will evaluate the entire Proposal Package.
- 2. The Owner reserves the right to reject a Contractor's Proposal Package based on inadequate documentation, unacceptable subcontractors, or other inconsistencies on the Contractor's part.
- 3. The Owner reserves the right to reject a Price Proposal or cancel a Project for any reason. The Owner also reserves the right not to issue a Work Order if it is determined to be in the best interests of the Owner. The Owner may perform such work by other means. The Contractor shall not recover any costs arising out of or related to the development of the Work Order including but not limited to the costs to attend the Joint Scope Meeting, review the Detailed Scope of Work, prepare a Proposal (including incidental architectural and engineering services), subcontractor costs, and the costs to review the Work Order Proposal with the Owner.
- 4. Each Work Order provided to the Contractor shall reference the Detailed Scope of Work and set forth the Work Order Price and the Work Order Completion Time. All clauses of this Contract shall be applicable to each Work Order. The Work Order, signed by the Owner and delivered to the

1 Contractor constitutes the Owner's acceptance of the Contractor's
2 Proposal Package. A signed copy of the Work Order will be provided to
3 the Contractor.
4

- 5 5. In the event that immediate emergency response is necessary, the
6 Contractor shall be required to follow alternative procedures as
7 established by the Owner. The Contractor shall begin work as directed
8 notwithstanding the absence of a fully developed Request for Proposal,
9 Detailed Scope of Work, or Work Order. The Contractor shall be
10 compensated in accordance with the Construction Task Catalog® and Non
11 Pre-priced Tasks as if the work had been ordered under the standard
12 procedures.
13

14 F. Review of Contract Documents and Field Conditions
15

- 16 1. The Contractor shall carefully study and compare the Contract Documents
17 and shall at once report to the Project Manager any discrepancy or
18 inconsistency that may be discovered. The Contractor shall not be liable
19 to the Owner or the Project Manager for any damage resulting from any
20 such inconsistencies or discrepancies in the Contract Documents unless
21 the Contractor recognized such inconsistencies or discrepancies and
22 knowingly failed to report it to the Project Manager, or the Contractor was
23 responsible for the preparation of the Contract Documents. The
24 Contractor shall perform no portion of the Work at any time unless
25 authorized by the Contract Documents or, where required, approved Shop
26 Drawings, Product Data or Samples for such portion of the Work.
27
- 28 2. Neither the Owner nor the Project Manager or Architect assume any
29 responsibility for an understanding or representation made by any of their
30 agents or representation prior to the execution of the Agreement unless
31 (1) such understanding or representations are expressly stated in the
32 Agreement, and (2) the Agreement expressly provides that responsibility
33 therefore is assumed by the Owner.
34
- 35 3. Failure by the Contractor to acquaint himself/herself with all available
36 information will not relieve him/her from responsibility for estimating
37 properly the difficulty or cost of successfully performing the Work.
38
- 39 4. The Contractor shall take field measurements and verify field conditions
40 and shall carefully compare such field measurements and conditions and
41 other information known to the Contractor with the Contract Documents
42 before commencing activities. Any inconsistencies or discrepancies
43 discovered by the Contractor shall be reported to the Project Manager at
44 once.
45
- 46 5. Before submitting any Request for Information (RFI), or other contractor
47 initiated request for information, the Contractor shall determine that the
48 information requested is not clearly provided in the Contract Documents.
49 RFI's shall be submitted to the Project Manager only from the Contractor,
50 or Owner, and not from any subcontractor, supplier or other vendor, and
51 shall be on a form approved by the Project Manager. The Contractor shall

1 provide a revised and updated RFI Priority Schedule on a weekly basis.
2 The RFI Priority Schedule shall rank RFI's in order of priority and include
3 a brief statement of reason for priority. Owner initiated RFI's will not be
4 listed on the Contractor's RFI Priority Schedule. The Owner will provide
5 the Architect or Engineer a separate list of Owner initiated RFI's upon
6 request of the Architect or Engineer. The Architect or Engineer will
7 endeavor to respect the order of priorities as requested by the Contractor
8 or Owner for the overall benefit of the Project. The RFI process is for
9 information and clarification only and may not be utilized to obtain approval
10 for changes in Work Order Price or time. Also see Division 01 - General
11 Requirements.

12
13 G. Supervision Procedures

- 14
15 1. The Contractor shall efficiently supervise and direct the Work, using
16 therein the Contractor's best skill and diligence for which he/she is
17 remunerated in the Work Order Price. He/She shall carefully inspect the
18 site and study and compare the Contract Documents, as ignorance of any
19 phase of any of the features or conditions affecting the Contract will not
20 excuse him/her from carrying out its provisions to its full intent.
21
22 2. The Contractor shall employ a competent superintendent and necessary
23 assistants who shall be in attendance at the project site during the
24 progress of the Work. The superintendent shall represent the Contractor
25 and all communications given to the superintendent shall be as binding as
26 if given to the Contractor. Important communications shall be confirmed in
27 writing. Other communications shall be so confirmed upon written request
28 in each case. The Superintendent who begins the project shall remain on
29 the project until the project is completed, as long as the Contractor
30 employs that person. The Superintendent shall not be replaced without the
31 approval of the Owner.
32
33 3. The Contractor shall be responsible to the Owner for the acts and
34 omissions of his/her employees, subcontractors and their agents and
35 employees, and other persons performing any of the Work under a
36 contract with the Contractor.
37
38 4. The Contractor shall at all times enforce strict discipline and good order
39 among his/her employees and shall not employ on the Work any unfit
40 person or anyone not skilled in the task assigned to him/her.
41
42 5. The Contractor shall not be relieved from his/her obligations to perform
43 the Work in accordance with the Contract Documents either by the
44 activities or duties of the Owner or the Architect or Engineer in his/her
45 administration of the Contract, or by inspections, tests or approvals
46 required or performed by persons other than the Contractor.
47
48 6. Contractor shall alert and inform their employees that State law requires
49 that the identities of inmates/wards/patients/clients be kept confidential.
50 Revealing the identities of inmates/wards/patients/clients is punishable
51 by law.

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H. Construction Procedures

1. For any work that takes place within secured facilities: All access to the construction site shall be coordinated with the appropriate Fresno County department as identified in the Detailed Scope of Work. Security background checks will be required for any employee that performs work within the secure perimeter of a facility. Security background forms can be obtained from the Project Manager. After the acceptance of the Contractor's Work Order Proposal but prior to the Notice to Proceed and the commencement of work, the forms for all required persons shall be submitted to the appropriate department for review. Vendor badges and/or other forms of identification will then be issued which must be worn at all times while within the secured areas of the site. The costs for the required background checks will be borne by the County.
2. Means and Methods - The Contractor shall be solely responsible for and control of construction means, methods, techniques, sequences, coordination and procedures for all the Work of this contract. Additionally, he/she shall be responsible for safety precautions and programs in connection with the Work.
3. The Contractor shall coordinate all work with the Project Manager to minimize any interruptions to the normal operation of any affected facilities; particularly interruptions to air conditioning, electrical services, alarm systems, communications and computer systems. The Contractor shall be responsible for all costs incurred by the Owner on a system as a result of work by the Contractor or damage caused by the Contractor's operations, including costs associated with false fire alarms caused by Contractor's operations.
4. Laws of County and State - The Contractor must comply with all laws, rules, regulations, provisions and ordinances of the County in which the Work is being done, and all State laws pertaining to the Work.
5. Safeguards - The Contractor shall provide, in conformity with all local codes and ordinances and as may be required, such temporary walls, fences, guard-rails, barricades, lights, danger signs, enclosures, etc., and shall maintain such safeguards until all work is completed.
6. Housekeeping - Contractor shall keep the premises free of excess accumulated debris. Clean up as required and as directed by the Project Manager. At completion of work all debris shall be removed from the site. Refer to General Requirements for additional requirements.
7. Labor and Materials - Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the Work, whether temporary or

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permanent and whether or not incorporated or to be incorporated in the Work.

8. The Contractor shall deliver to the Project Manager, prior to final acceptance of the Work as a whole, signed certificates from suppliers of materials and manufactured items stating that such items conform to the Contract Documents.
9. The Contractor, immediately upon Notice to Proceed of each individual Work Order (or where shop drawings, samples, etc., are required, immediately upon receipt of review thereof) shall place orders for all materials, work fabrication, and/or equipment to be employed by him/her in that portion of the Work contracted for. The Contractor shall keep all materials, work fabrications and/or equipment specified and shall advise the Project Manager promptly, in writing, of all orders placed and of such materials, work fabrications and/or equipment which may not be available in a timely manner for the purposes of the Contract.
10. Any worker whose work is unsatisfactory to the Owner or the Architect or Engineer, or are considered by the Owner or Architect or Engineer to be careless, incompetent, unskilled or otherwise unfit shall be dismissed from work under the Contract upon written request to the Contractor from the Owner or the Architect or Engineer.
11. Temporary Facilities – Contractor may connect to existing water and electricity available on the site provided it is suitable to the Contractor's requirements. Water and electricity used will be paid by the Owner. Contractor shall bear all expenses for carrying the water or electricity to the appropriate locations and to connect or tap into existing lines. Toilet facilities may be available on a site to the workmen engaged in the performance of this contract. It shall be the responsibility of the Contractor to confirm with the Owner the availability of toilet facilities on the site. The use of such facilities may be revoked in the event of excess janitorial requirements.
12. Contractor shall not perform any fire hazardous operation adjacent to combustible materials. Any fire hazardous operation shall have proper fire extinguisher close by and the adjacent area shall be policed before stopping work for the day. Contractor shall provide not less than one OSHA/NFPA Class 6-ABC fire extinguisher for each 9,000 square feet of project area or fraction thereof.
13. Contractor shall erect temporary dust separation partitions and floor mats as necessary to confine dust and debris within area of work. Contractor shall post signs, erect and maintain barriers and warning devices for the protection of the general public and Owner personnel. The Contractor shall provide adequate protection for all parts of the present building and its contents and occupants wherever work under this contract is to be performed. The Contractor shall observe that the health and welfare of occupants of the existing building may be affected by noises and fumes produced by the construction. Insofar as is possible, loud and

unnecessary noise is to be avoided and noise producing work should be performed as far away from occupied areas as is consistent with the efficient conduct of the work.

14. Trenching and Excavation - In accordance with Section 7104 of the California Public Contract Code, the following provisions shall apply to any contract involving digging of trenches or other excavations that extend deeper than four feet below the surface:

- a. The contractor shall promptly, and before the following conditions are disturbed, notify the Owner, in writing, of any:
 - i. Material that the contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.
 - ii. Subsurface or latent physical conditions at the site differing from those indicated.
 - iii. 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.
- b. The Owner shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the contractor's cost of, or the time required for, performance of any part of the work, shall issue a Supplemental Work Order in accordance with the provisions of Section 2.09 of the General Conditions.
- c. In the event that a dispute arises between the Owner and the contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the contractor's cost of, or time required for, performance of any part of the work, the contractor shall not be excused from any scheduled completion date provided for by the contract, but shall proceed with all work to be performed under the contract. The contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the contracting parties.

2.10 SUBCONTRACTORS

- A. Agreements - Agreements between the Contractor, Subcontractors, and Subcontractors of lower tier shall be subject to the approval of the Owner, but in no case does such approval relieve the Contractor of any conditions imposed by the Contract Documents. The Contractor shall only use subcontractors included

1 in his/her Work Order Proposal unless first approved by the Owner pursuant to
2 statute. The Contractor shall not use any subcontractor who is ineligible to perform
3 work on a Public Works Project pursuant to section 1777.1 or 1777.7 of the Labor
4 Code. Notwithstanding any other provision of the Contract Documents,
5 subcontractors may be added, deleted or substituted only in accordance with the
6 provisions of Public Contract Code Section 4100 et seq.
7

8 B. Relation with Subcontractor – By an appropriate agreement, written where legally
9 required for enforceability, the Contractor shall bind every Subcontractor and
10 require therein that every Subcontractor agrees to be bound by the terms of the
11 Contract Documents to carry out their provisions insofar as applicable to their
12 work; and the Contractor further agrees to pay to each Subcontractor promptly
13 upon issuance of Certificate of Payment, his/her or their due portion. Said
14 agreement shall preserve and protect the rights of the Owner and the Architect
15 under the Contract Documents with respect to the work to be performed by the
16 Subcontractor so that the subcontracting thereof will not prejudice such rights, and
17 shall allow to the Subcontractor, unless specifically provided otherwise in the
18 Contractor-Subcontractor Agreement, the benefit of all rights, remedies and
19 redress against the Contractor that the Contractor, under the Contract
20 Documents, has against the Owner. Where appropriate, the Contractor shall
21 require each Subcontractor to enter into similar agreements with their Sub-
22 subcontractors. The Contractor shall make available to each proposed
23 Subcontractor, prior to the execution of the Subcontract, copies of the Contract
24 Documents to which the Subcontractor will be bound by this Paragraph and
25 identify to the Subcontractor any terms and conditions of the proposed
26 Subcontract which may be at variance with the Contract Documents. Each
27 Subcontractor shall similarly make copies of Contract Documents available to
28 their Sub-subcontractors. Nothing contained herein shall be deemed to create an
29 agency relationship between the Owner and any Subcontractor or material
30 supplier.
31

32 C. Owner's Relation - Neither the acceptance of the name of Subcontractor nor the
33 suggestion of such name nor any other act of the Owner or Architect nor anything
34 contained in any Contract Document is to be construed as creating any
35 contractual relation between the Owner (or Owner's authorized representatives)
36 and any Subcontractor of any tier nor as creating any contractual relation between
37 the Architect and any Subcontractor of any tier.
38

39 D. All Subcontractors employed by the Contractor shall be appropriately licensed in
40 conformity with the laws of the State of California.
41

42 E. Jurisdictional disputes between Subcontractors or between Contractor and
43 Subcontractor shall not be mediated or decided by the Owner or the Architect.
44 The Contractor shall be responsible for the resolution of all such disputes based
45 upon his/her contractual relationship with his/her Subcontractors.
46
47

48 2.11 OWNER'S RIGHT TO PERFORM WORK AND TO AWARD SEPARATE
49 CONTRACTS
50

- 1 A. The Owner reserves the right to perform work related to the Project with the
2 Owner's own forces, and to award separate contracts in connection with other
3 portions of the Project or other work on the site under these or similar Conditions
4 of the Contract. If the Contractor claims that the Owner's action results in delay,
5 damage or additional cost attributable thereto, the Contractor shall make such
6 claim as provided elsewhere in the Contract Documents.
7
- 8 B. When separate contracts are awarded for different portions of the Project or other
9 work on the site, the term Contractor in the Contract Documents in each case
10 shall mean the Contractor who executes each separate Owner-Contractor
11 Agreement.
12
- 13 C. The Owner shall provide for coordination of the activities of the Owner's own
14 forces and of each separate contractor with the Work of the Contractor, who shall
15 cooperate with them. The Contractor shall participate with other separate
16 contractors and the Owner in reviewing their construction schedules when
17 directed to do so. The Contractor shall make any revisions to the construction
18 schedule deemed necessary after a joint review and mutual agreement. The
19 construction schedules shall then constitute the schedules to be used by the
20 Contractor, separate contractors and the Owner until subsequently revised.
21
- 22 D. Unless otherwise provided in the Contract Documents, when the Owner performs
23 construction or operations related to the Project with the Owner's own forces, the
24 Owner shall be deemed to be subject to the same obligations and to have the
25 same rights which apply to the Contractor under the Conditions of the Contract.
26
27

28 2.12 MUTUAL RESPONSIBILITY

- 29
- 30 A. The Contractor shall afford the Owner and separate contractors reasonable
31 opportunity for introduction and storage of their materials and equipment and
32 performance of their activities and shall connect and coordinate the Contractor's
33 construction and operations with theirs as required by the Contract Documents.
34
- 35 B. When any part of the Contractor's Work depends upon proper execution or results
36 of the work of the Owner or any separate contractor, the Contractor shall, prior to
37 proceeding with the Work, promptly report to the Project Manager any apparent
38 discrepancies or defects in such other work that render it unsuitable for such
39 proper execution and results. Failure of the Contractor so to report shall constitute
40 an acceptance of the Owner's or separate contractor's work as fit and proper to
41 receive the Work, except as to defects which may subsequently become apparent
42 in such work by others.
43
- 44 C. If, following the reporting of any discrepancy or defect as required herein above,
45 the Contractor suffers damage due to disruption or delay caused by the separate
46 contractor, without fault by the Owner, the Contractor's remedy shall be limited to
47 seeking recovery from the separate contractor.
48
- 49 D. Any costs caused by defective or ill-timed work shall be borne by the Contractor
50 responsible therefor.
51

- 1 E. Should the Contractor cause damage to the work or property of the Owner, or to
2 other work or property on the site, the Contractor shall promptly remedy such
3 damage as provided herein.
4
- 5 F. Should the Contractor wrongfully delay or cause damage to the work or property
6 of any separate contractor, the Contractor shall, upon due notice, promptly
7 attempt to settle with such other contractor by agreement, or otherwise to resolve
8 the dispute. If such separate contractor sues the Owner on account of any delay
9 or damage alleged to have been caused by the Contractor, the Owner shall notify
10 the Contractor who shall defend such proceedings, and if any judgment or award
11 against the Owner (or Owner's authorized representatives) arises therefrom, the
12 Contractor shall pay or satisfy such judgment or award in full and shall reimburse
13 the Owner for all costs which the Owner has incurred in connection with such
14 matter.
15

16
17 2.13 OWNER'S RIGHT TO CLEAN UP
18

19 If a dispute arises between the Contractor and separate contractors as to their
20 responsibility for cleaning up as required in the Contract Documents, the Owner may
21 clean up and the contractor responsible shall pay Owner such portions of the cost as the
22 Project Manager shall determine to be just.
23

24
25 2.14 GOVERNING LAW
26

27 The Contract shall be governed by the law of the State of California.
28
29

30 2.15 INSPECTION
31

- 32 A. All material and workmanship (if not otherwise designated by the Contract
33 Documents) shall be subject to inspection, examination, and test by the Owner
34 and Project Manager at any and all times during manufacture and/or construction
35 and at any and all places where such manufacture and/or construction are carried
36 on. The Owner and Project Manager shall have the right to reject defective
37 material and workmanship or require its correction.
38
- 39 B. The Contractor shall furnish promptly without additional charge, all reasonable
40 facilities, labor, and materials necessary for the safe and convenient inspection
41 and tests that may be required by the Owner and Project Manager.
42
- 43 C. Where the Contract Documents, instructions by the Owner, laws, ordinances, or
44 any public authority having jurisdiction requires work to be inspected, tested or
45 approved before work proceeds, such work shall not proceed, nor shall it be
46 concealed prior to inspection.
47
- 48 D. The Contractor shall give the Project Manager at least two (2) business days
49 advance notice of the readiness for any Contract compliance inspection by the
50 Inspector. The Contractor shall give notice as required by all other inspecting and

1 testing agencies of jurisdiction for Code and regular compliance inspection. In all
2 cases, the Contractor shall schedule inspections so as not to delay the Work.
3

4 E. If the Project Manager determines that any work requires additional special
5 inspection beyond that identified in the specifications, the Project Manager will,
6 upon written authorization from the Owner, instruct the Contractor to order such
7 special inspection, testing or approval, and the Contractor shall give notice as
8 provided above. If such special inspection or testing reveals a failure of the Work
9 to comply with the requirements of the Contract Documents, the Contractor shall
10 bear all costs thereof, including compensation for the Project Manager's additional
11 services, testing or inspections made necessary by such failure; otherwise the
12 Owner shall bear such costs, and an appropriate Supplemental Work Order shall
13 be issued.
14

15 F. Should it be considered necessary or advisable by the Project Manager at any
16 time either before acceptance of the entire Work or after acceptance and within
17 the guaranty period to make an examination of work already completed, by
18 removing or tearing out same, the Contractor shall on request promptly furnish all
19 necessary facilities, labor, and material. If such work is found to be defective in
20 any material respect, due to the fault of the Contractor or his/her Subcontractors,
21 he/she shall defray all the expenses of such examination and of satisfactory
22 reconstruction. If, however, such work is found to meet the requirements of the
23 contract, any compensation deemed appropriate shall be handled by issuance of
24 a Contract Change Order to the Contractor and he/she shall, in addition, if
25 completion of the work has been delayed thereby, be granted a suitable extension
26 of Work Order Time on account of the additional work involved.
27

28 G. Required certificates of inspection, testing or approval shall be secured by the
29 Contractor and the Contractor shall promptly deliver them to the Project Manager
30 for review and evaluation of compliance with the appropriate specifications and
31 standards.
32

33 H. When the work is completed the Contractor shall notify the Project Manager in
34 writing that the work will be ready for final inspection and test on a definite date
35 which shall be stated in such notice.
36
37

38 2.16 TAXES, PERMITS, FEES, AND INDEMNIFICATION FOR PATENT INFRINGEMENT
39 CLAIM
40

41 A. The Contractor shall pay for and include all Federal, State and local taxes direct
42 or indirect for the work or portions thereof provided by the Contractor which are
43 legally enacted at the time the Notice to Proceed is issued, whether or not yet
44 enacted, and secure and pay all fees and charges for permits and licenses, unless
45 otherwise specified.
46

47 B. Royalty and license fees incidental to the use of any patented material, device or
48 process shall be paid by the Contractor and in the event of a claim of alleged
49 infringement of patent copyright, or Trade Secret rights, the Contractor shall
50 indemnify, save the Owner (and Owner's authorized representatives) free and

- 1 harmless, and defend, at the Contractor's own expense, any and all suits that may
2 be brought in such connection.
3
4 C. Unless otherwise provided in the Contract Documents, the Owner shall secure
5 and pay for the building permit, permanent utility connection fees, and right-of-
6 way encroachment permit. The Contractor shall secure and pay for temporary
7 construction utilities, and all other permits and governmental fees, licenses and
8 inspections necessary for the proper execution and completion of the Work.
9
10 D. The Contractor shall give all notices and comply with all laws, ordinances, rules,
11 regulations and lawful orders of any public authority bearing on the performance
12 of the Work.
13
14 E. It is not the responsibility of the Contractor to make certain that the Contract
15 Documents are in accordance with applicable laws, statutes, building codes and
16 regulations. If the Contractor observes that any of the Contract Documents are
17 at variance therewith in any respect, the Contractor shall promptly notify the
18 Project Manager in writing, and any necessary changes shall be accomplished by
19 appropriate Modification.
20
21 F. If the Contractor performs any work knowing it to be contrary to any laws,
22 ordinances, rules and regulations, without notice to the Project Manager, the
23 Contractor shall assume full responsibility therefore and shall bear all costs
24 attributable thereto.
25
26 G. Any reference in the Contract Documents to codes, standard specifications or
27 manufacturer's instructions shall mean the latest printed edition of each in effect
28 at the Contract date.
29
30

31 2.17 CONTRACTOR'S CONSTRUCTION SCHEDULE
32

- 33 A. Within seven (7) calendar days after receipt of Notice to Proceed for each
34 individual Work Order, the Contractor shall submit a Construction Schedule in
35 CPM (Critical Path Method) form to the Project Manager for approval. The
36 Construction Schedule shall be sufficiently detailed to accurately depict all the
37 work required by the Contract. CPM Construction Schedule shall reflect shop
38 drawings; submittals due and return dates, fabrication and delivery times, cost
39 loading, crew mix, and equipment loading data. The Contractor shall thereafter
40 adhere to the Construction Schedule, as updated monthly, or as necessary in
41 accordance with the Contract Documents including any scope changes, or
42 changes in the work approved by the Owner during the course of construction.
43 "Slack" or "float" time on the CPM Construction Schedule is neither for the sole
44 benefit of the Owner or Contractor.
45
46
47 B. Within fourteen (14) calendar days after the pre-construction conference, the
48 Contractor shall provide a Submittal and Procurement Schedule indicating time
49 periods for review of Shop Drawings, Data, Samples, and procurement of material
50 and equipment required for the Work. Contractor shall allow time for submittal
51 review in accordance with the General Requirements Section – Construction

1 Progress Documentation. All items that require review by the Project Manager
2 and/or are not readily available from stock and requiring more than thirty-five (35)
3 days lead-time shall be included in the Submittal and Procurement Schedule.
4 Items listed in the Submittal and Procurement Schedule shall also be identified as
5 activities on the CPM Construction Schedule. Contractor shall identify items
6 requiring coordination with work of separate contractors. The working day to
7 calendar date correlation shall be based upon the Contractor's proposed work
8 week with adequate allowance for legal holidays, days lost due to abnormal
9 weather, and any special requirements of the Project.

- 10
11 C. The Construction Schedule shall be prepared and maintained by the Contractor.
12
13 D. The Owner, Project Manager, Contractor and other Contractor(s) shall jointly
14 review the progress of the work weekly. Should this review, in the opinion of the
15 Project Manager, indicate that the work is behind the schedule established by
16 currently reviewed Construction Schedule, the Contractor shall either (1) provide
17 a plan to the Project Manager indicating the steps the Contractor intends to take
18 in order to recover the time behind schedule and conform to the reviewed
19 Construction Schedule; or (2) submit a revised Construction Schedule for
20 completion of the work, remaining within the Work Order Completion Time, to the
21 Project Manager for review by the next weekly meeting. If the Contractor's
22 recovery or revised schedule requires work to occur during Other Than Normal
23 Working Hours, the Contractor will be responsible for any resulting costs incurred
24 by the Owner, including but not limited to, the costs for construction management,
25 contract administration, inspection, testing and staffing.
26
27 E. The Contractor shall deliver copies of his/her daily job logs to the Project Manager
28 and Owner on a weekly basis or as otherwise agreed to by Owner. At a minimum,
29 the Contractor's daily job log should include the sub-contractors working onsite,
30 number of workers and their trade classification, description of work, visitors,
31 temperature and weather conditions, accidents, delays, and any other important
32 information pertaining to the project that day. The Contractor will schedule and
33 coordinate the Work of all sub-contractors on the Project. The Contractor will
34 keep the Sub-contractors informed of the Construction Schedule to enable the
35 Contractor to plan and perform the Work properly.
36
37

38 2.18 RECORDS, DOCUMENTS AND SAMPLES AT THE SITE
39

- 40 A. The Contractor shall maintain all records of required Review Agencies, County or
41 State inspections and shall promptly notify the Project Manager of the results of
42 any inspection. Copies of all such records shall be provided to the Owner.
43
44 B. The Contractor shall secure and maintain required certificates of inspection,
45 testing or approval and shall promptly deliver them to the Project Manager.
46
47 C. The Contractor shall maintain at the Project site, on a daily basis, one (1) record
48 copy of all Drawings, Specifications, Addenda, Work Orders and other
49 Modifications, in good order and marked currently to record all changes made
50 during construction, and reviewed Shop Drawings, Product Data and Samples.
51 These shall be available to the Project Manager and the Owner and reviewed

1 weekly, and shall be delivered to the Project Manager for forwarding to the Owner
2 upon completion of the Project. The Contractor shall advise the Project Manager
3 on a current basis of all changes in the Work made during construction. Payment
4 may be withheld from Contractor for failure to maintain current Record
5 Documents.
6

7
8 2.19 USE OF SITE
9

- 10 A. The Contractor shall confine operations at the site to areas permitted by law,
11 ordinances, permits and the Contract Documents, and shall not unreasonably
12 encumber the site with any materials or equipment.
13
14 B. The Contractor shall coordinate all of the Contractor's operations with, and secure
15 approval from, the Project Manager before using any portion of the site. Also see
16 Technical Specifications, Division I, General Requirements.
17

18
19 2.20 CUTTING AND PATCHING OF WORK
20

- 21 A. The Contractor shall be responsible for all cutting, fitting or patching that may be
22 required to complete the Work or to make its several parts fit together properly.
23
24 B. The Contractor shall not damage or endanger any portion of the Work or the work
25 of the Owner or any separate contractors by cutting, patching or otherwise altering
26 any work, or by excavation. The Contractor shall not cut or otherwise alter the
27 work of the Owner or any separate contractor except with the written consent of
28 the Owner and of such separate contractor. The Contractor shall not
29 unreasonably withhold from the Owner or any separate contractor consent to
30 cutting or otherwise altering the Work.
31
32 C. The Contractor in all cases shall exercise extreme care in any cutting operations,
33 and perform such operations under adequate supervision by competent
34 mechanics skilled in the applicable trade. Openings shall be neatly cut and shall
35 be kept as small as possible to avoid unnecessary damage. Careless and/or
36 avoidable cutting damage, etc., will not be tolerated, and the Contractor will be
37 held responsible for such avoidable or willful damage.
38
39 D. All replacing, patching and repairing of all materials and surfaces cut or damaged
40 in the execution of the Work shall be performed by experienced mechanics of the
41 several trades involved. All work of such nature shall be done with the applicable
42 materials, in such a manner that all surfaces so replaced, repaired, or patched,
43 will, upon completion of the Work, match the surrounding similar surfaces.
44

45
46 2.21 CLEANING UP
47

- 48 A. The Contractor shall at all times keep the premises free from accumulation of
49 waste materials or rubbish caused by the Contractor's operations. At the
50 completion of the Work, the Contractor shall remove all the Contractor's waste

1 materials and rubbish from and about the Project as well as all the Contractor's
2 tools, construction equipment, machinery and surplus materials.

- 3
4 B. If the Contractor fails to clean up at the completion of the Work, the Owner may
5 do so and the cost thereof shall be paid by the Contractor.
6

7
8 2.22 INDEMNIFICATION
9

- 10 A. To the fullest extent permitted by law, Contractor agrees to and shall indemnify,
11 save, hold harmless and at Owner's request, defend Owner and its officers,
12 agents and employees, and the Architect and Consultants and their respective
13 officers, agents and employees, from any and all costs and expenses, attorney
14 fees and court costs, damages, liabilities, claims and losses occurring or resulting
15 to Owner, the Architect or Consultants in connection with the performance, or
16 failure to perform, by Contractor, its officers, agents or employees under this
17 Agreement, and from any and all costs and expenses, attorney fees and court
18 costs, damages, liabilities, claims and losses occurring or resulting to any person,
19 firm or corporation who may be injured or damaged by the performance, or failure
20 to perform, of Contractor, its officers, agents or employees under this Agreement.
21 In addition, Contractor agrees to indemnify Owner for Federal, State of California
22 and/or local audit exceptions resulting from non-compliance herein on the part of
23 Contractor.
24

- 25 B. In any and all claims against the Owner, the Architect or Consultants, or any of
26 their respective officers, agents or employees, initiated by any employee of the
27 Contractor, any Subcontractor, anyone directly or indirectly employed by any of
28 them or anyone for whose acts any of them may be liable, the indemnification
29 obligation set forth in the immediately preceding paragraph shall not be limited in
30 any way by any limitation on the amount or type of damages, compensation or
31 benefits payable by or for the Contractor or any Subcontractor under workmen's
32 compensation acts, disability benefit acts or other employee benefit acts.
33

- 34 1. Independent Contractor: In performance of the work, duties and
35 obligations assumed by Contractor under this Agreement, it is mutually
36 understood and agreed that Contractor, including any and all of the
37 Contractor's officers, agents, and employees will at all times be acting and
38 performing as an independent contractor, and shall act in an independent
39 capacity and not as an officer, agent, servant, employee, joint venturer,
40 partner, or associate of the Owner. Furthermore, Owner shall have no right
41 to control or supervise or direct the manner or method by which Contractor
42 shall perform its work and function. However, Owner shall retain the right to
43 administer this Agreement so as to verify that Contractor is performing its
44 obligations in accordance with the terms and conditions thereof.
45

46 Contractor and Owner shall comply with all applicable provisions of law
47 and the rules and regulations, if any, of governmental authorities having
48 jurisdiction over matters the subject thereof.
49

50 Because of its status as an independent contractor, Contractor shall
51 have absolutely no right to employment rights and benefits available to

1 Owner employees. Contractor shall be solely liable and responsible for
2 providing to, or on behalf of, its employees all legally-required employee
3 benefits. In addition, Contractor shall be solely responsible and save
4 Owner harmless from all matters relating to payment of Contractor's
5 employees, including compliance with Social Security withholding and all
6 other regulations governing such matters. It is acknowledged that during
7 the term of this Agreement, Contractor may be providing services to
8 others unrelated to the Owner or to this Agreement
9

10 2.23 FAIR EMPLOYMENT PRACTICES CLAUSE
11

12 Nondiscrimination: In connection with the performance of Work under the contract, the
13 Contractor agrees (as prescribed in Chapter 6 of Division 3 of Title II of the Government
14 Code of the State of California, commencing at Section 12900 and by Labor Code
15 Section 1735) not to discriminate against any employee or applicant for employment
16 because of race, religious creed, color, national origin, ancestry, physical disability,
17 mental disability, medical condition, marital status or sex. The aforesaid provisions shall
18 include, but not be limited to, the following: employment, upgrading, demotion or
19 transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or
20 other forms of compensation, and selection for training, including apprenticeship. The
21 Contractor agrees to post hereafter in conspicuous places, available for employees and
22 applicants for employment, Notices to be provided by the County, setting forth the
23 provisions of this discrimination clause. The Contractor further agrees to insert the
24 foregoing provisions in all subcontracts hereunder, except subcontracts for standard
25 commercial supplies of raw materials.
26
27

28 2.24 PAYMENT
29

30 A. The Owner shall make one payment for all Work Orders that have a Work Order
31 Completion Time of 45 days or less, or a Work Order Price of \$25,000 or less. For
32 all other Work Orders, the Owner may make partial, monthly payments based on
33 a percentage of the work completed.
34

35 B. SCHEDULE OF VALUES
36

37 Before the first Application for Payment, the Contractor shall submit to the Project
38 Manager a Schedule of Values allocated to the various portions of the Work,
39 prepared in such form and supported by such data to substantiate its accuracy as
40 the Project Manager may require. This schedule, unless objected to by the Project
41 Manager, shall be used only as a basis for the Contractor's Applications for
42 Payment.
43

44 C. APPLICATIONS FOR PAYMENT
45

46 The Owner will make progress payments to the Contractor upon completion of
47 portions of the Work, as covered by the Contract Documents, in accordance with
48 established Owner procedures. Before submitting an Application for Payment
49 (Final or Partial) the Contractor shall reach an agreement with the Project
50 Manager (in consultation with the Architect) concerning the percentage complete

1 of the Detailed Scope of Work and the dollar value for which the Application for
2 Payment may be submitted.

- 3
- 4 1. On or about the twentieth (20th) of the month in which the work was
5 performed, the Contractor shall submit to the Project Manager an itemized
6 Application for Payment, notarized if required, supported by such data
7 substantiating the Contractor's right to payment as the Owner or the
8 Project Manager may require, including appropriate updates to the
9 Construction Schedule, and reflecting retainage, if any, as provided
10 elsewhere in the Contract Documents. Payment is expressly conditioned
11 upon submission by the Contractor of conditional and unconditional
12 waivers and release of lien rights upon progress payment as the Owner or
13 the Architect may require. Waiver and Release forms must be submitted
14 on forms approved by the Owner. Copies of said forms shall comply with
15 Civil Code Section 8132 through 8138, inclusive.
- 16
- 17 2. Unless otherwise provided in the Contract Documents, payments may be
18 made on account of materials or equipment not incorporated in the Work
19 but delivered and suitably stored at the site and, if approved in advance
20 by the Owner, payments may similarly be made for materials or equipment
21 suitably stored at some other location agreed upon in writing. Payments
22 for materials or equipment stored on or off the site shall be conditioned
23 upon submission by the Contractor of bills of sale or such other procedures
24 satisfactory to the Owner to establish the Owner's title to such materials
25 or equipment or otherwise protect the Owner's interest, including
26 applicable insurance and transportation to the site for those materials and
27 equipment stored off the site.
- 28
- 29 3. The Contractor warrants that title to all work, materials and equipment
30 covered by an Application for Payment will pass to the Owner either by
31 incorporation in the construction or upon receipt of payment by the
32 Contractor, whichever occurs first, free and clear of all liens, stop notices,
33 claims, security interest or encumbrances, hereinafter referred to as
34 "liens"; and that no work, materials or equipment covered by an
35 Application for Payment will have been acquired by the Contractor, or by
36 any other person performing work at the site or furnishing materials and
37 equipment for the Project, subject to an agreement under which an interest
38 therein or an encumbrance thereon is retained by the seller or otherwise
39 imposed by the Contractor or such other person.
- 40
- 41 4. On or about the twentieth (20th) day of the month following the month in
42 which the work was performed, the Owner shall pay to the Contractor
43 ninety-five percent (95%) of the value of said work in place, as checked
44 and approved by the Project Manager. The balance of five percent (5%)
45 of the estimate shall be retained by the Owner until the time of final
46 acceptance of said work. In lieu of the five percent (5%) retainage, the
47 Contractor may substitute securities as provided herein below.
- 48
- 49 a. If the Owner does not pay the Contractor within thirty (30) days
50 after receipt of an undisputed and properly submitted payment
51 request for a progress payment, excluding that portion of the final

1 payment designated by the contract as retention earnings, then the
2 Owner shall pay interest to the Contractor as provided by Public
3 Contract Code Section 20104.50. Said interest penalty is the sole
4 recourse of Contractor and Contractor shall have no right to stop
5 the Work until payment of the amount owing has been received,
6 nor shall the Work Order Completion Time be extended, nor shall
7 the Work Order Price be increased in any way, including by reason
8 of any costs incurred by Contractor, except to the extent of said
9 interest payment.

10
11 b. Pursuant to Public Contract Code Section 7107, in the event of a
12 dispute between the Owner and Contractor, the Owner may
13 withhold from the final payment an amount not to exceed one
14 hundred and fifty percent (150%) of the disputed amount. Except
15 as so provided, the Owner shall release the retention withheld
16 within sixty (60) days after the date of Work Order completion of
17 the work of improvement, as "completion" is defined in Public
18 Contract Code Section 7107. In the event that retention payments
19 are not made within the time periods required by Public Contract
20 Code Section 7107, the Owner may be subject to the interest
21 provisions of Public Contract Code Section 7107.

22
23 5. Security Substitutions and Escrow for Moneys Withheld to Insure
24 Contractor's Performance. Pursuant to Public Contract Code section
25 22300, the Contractor may deposit in an escrow, equivalent securities for
26 any moneys withheld to ensure performance and have said moneys paid
27 directly to Contractor, or, in the alternative, have the Owner deposit such
28 moneys directly into an escrow. Upon the closing of any such escrow,
29 Contractor shall pay to each Subcontractor, not later than twenty (20) days
30 after receipt of the closing payment, the respective amount of interest
31 earned, net of costs attributed to retention withheld from each
32 Subcontractor, on the amount of retention withheld to insure the
33 performance of the Contractor. Any escrow established pursuant to this
34 article shall be with a state or federally chartered bank, shall be at the sole
35 expense of the Contractor, and shall be established using an escrow
36 agreement in substantially the following form:

(Begin Escrow Agreement)

ESCROW AGREEMENT FOR SECURITY DEPOSITS IN LIEU OF RETENTION

This Escrow Agreement is made and entered into by and between the County of Fresno, (hereinafter called "Owner"), _____ (hereinafter called "Contractor"); and _____, a state or federally chartered bank in California, (hereinafter called "Escrow Agent").

For the consideration hereinafter set forth, the Owner, Contractor, and Escrow Agent agree as follows:

1. Pursuant to Section 22300 of the Public Contract Code of the State of California, Contractor has the option to deposit securities with Escrow Agent as a substitute for retention earnings required to be withheld by Owner pursuant to the Construction Contract entered into between the Owner and Contractor for _____ in the amount of \$ _____, and dated _____ (hereinafter referred to as the "Contract"). Alternatively, on written request of the contractor, the owner shall make payments of the retention earnings directly to the escrow agent. When Contractor deposits the securities as a substitute for Contract earnings, the Escrow Agent shall notify the Owner within ten (10) days of the deposit. The market value of the securities at the time of the substitution, as valued by the Owner, shall be at least equal to the cumulative total cash amount then required to be withheld as retention under the terms of the contract between Owner and Contractor. If the Owner determines that the securities are not adequate it will notify Contractor and Escrow Agent, and Contractor shall deposit additional security as further determined by the Owner. Securities shall be held in the name of the Owner and shall designate the Contractor as the beneficial owner.
2. Securities eligible for investment under subdivision (c) of the above-referenced Section 22300 shall include those listed in Section 16430 of the Government Code, and shall also include bank or savings and loan certificates of deposit, interest-bearing demand deposit accounts, and standby letters of credit. Deposit of any other type of security may be permitted only by mutual agreement of the Contractor and the Owner, evidenced by an amendment to this agreement executed by all of the parties hereto.
3. Upon the deposit of adequate securities, Owner shall make progress payments to the Contractor for such funds which otherwise would be withheld from progress payments pursuant to the Contract provisions.
4. When the Owner, at Contractor's written request, makes payment of retentions earned directly to the Escrow Agent, the Escrow Agent shall hold them for the benefit of the Contractor until such time as the escrow created under this contract is terminated. The Contractor may direct the investment of the payments into securities. All terms and conditions of this agreement and the rights and responsibilities of the parties shall be equally applicable and binding when the Owner pays the Escrow Agent directly.
5. Contractor shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the Escrow Account and all expenses of the Owner. The Owner, Contractor and Escrow Agent shall determine these expenses and payment terms.

Contract No.: #22-J-02
22-J-03
22-J-04

General Conditions
00 72 00-34

GENERAL BUILDING
JOB ORDER CONTRACTS

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- 6. The interest earned on the securities or the money market accounts held in escrow and all interest earned on that interest shall be for the sole account of Contractor and shall be subject to withdrawal by Contractor at any time and from time to time without notice to the Owner.
- 7. Contractor shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from Owner to the Escrow Agent that Owner consents to the withdrawal of the amount sought to be withdrawn by Contractor.
- 8. The Owner shall have the right to draw upon the securities or any amount paid directly to Escrow Agent in the event of default by the Contractor. Upon seven (7) days written notice to the Escrow Agent from the Owner of the default, the Escrow Agent shall immediately convert the securities to cash and shall distribute the cash, including any amounts paid directly to Escrow Agent, as instructed by the Owner. Escrow Agent shall not be concerned with the validity of any notice of default given by Owner pursuant to this paragraph, and shall promptly comply with Owner's instructions to pay over said escrowed assets. Escrow Agent further agrees not to interplead the escrowed assets in response to conflicting demands and hereby waives any present or future right of interpleader.
- 9. Upon receipt of written notification from the Owner certifying that the Contract is final and complete, and that the Contractor has complied with all requirements and procedures applicable to the Contract, Escrow Agent shall release to Contractor all securities and interest on deposit less escrow fees and charges of the Escrow Account. The escrow shall be closed immediately upon disbursement of all moneys and securities on deposit and payment of fees and charges.
- 10. Escrow Agent shall rely on the written notifications from the Owner and Contractor pursuant to Sections (6), (7), (8) and (9) of this Agreement and the Owner and Contractor shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of the securities and interest as set forth above.
- 11. Securities eligible for investment under this Agreement, as provided by Public Contract Code Section 22300, shall be those listed in Section 16430 of the Government Code, bank or savings and loan certificates of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by the Contractor and Owner.
- 12. The venue of any litigation concerning the rights and obligations of the parties to this agreement shall be the County of Fresno and the parties hereto waive the removal provisions of Code of Civil Procedure Section 394.
- 13. The names of the persons who are authorized to give written notice or to receive written notice on behalf of the Owner and on behalf of Contractor in connection with the foregoing, and exemplars of their respective signatures are as follows:

On behalf of Owner:

On behalf of Contractor:

Title – **Business Manager**

Title

Contract No.: #22-J-02
22-J-03
22-J-04

General Conditions
00 72 00-35

GENERAL BUILDING
JOB ORDER CONTRACTS

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Name – **Lemuel Asprec**
Signature _____
Address- **2220 Tulare, 6th Floor
Fresno, CA 93721**

Name
Signature _____
Address

On behalf of Escrow Agent:

Title
Name
Signature
Address

At the time the Escrow Account is opened, the Owner and Contractor shall deliver to the Escrow Agent a fully executed counterpart of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by their proper officers on the date first set forth above.

Owner:
Title – **Steven White, Director
Department of Public Works and Planning**

Contractor:
Title
Name

Signature _____
Address- **2220 Tulare, 6th Floor
Fresno, CA 93721**

Signature _____
Address

Escrow Agent:

Title
Name
Signature
Address

(End Escrow Agreement)

6. **Itemized Breakdown:** The Contractor shall submit a financial breakdown of the work, itemized by crafts or sections as designated by the Owner. The Contractor's payment shall be based upon the monthly percentage of completion of these items.

1 7. Lien Waivers: The Owner may require the Contractor to submit, along with
2 the progress payment request, notarized lien waivers from each
3 Subcontractor, materials or equipment supplier. Lien waivers shall comply
4 with Civil Code Section 8132, et seq., and the aggregate sum thereof shall
5 reflect all progress payments previously made.
6

7 D. CERTIFICATES FOR PAYMENT
8

9 1. The Project Manager shall, within seven (7) days after the receipt of the
10 Project Application for Payment, review the Project Application for
11 Payment and either issue a Project Certificate for Payment to the Owner
12 for such amounts as the Project Manager determines are properly due, or
13 notify the Contractor in writing of the reasons for withholding a Certificate
14 provided in Part F of this Section 2.24.
15

16 2. The issuance of a Project Certificate for Payment will constitute a
17 representation by the Project Manager to the Owner that, based on the
18 Project Manager's observations at the site as provided herein and the data
19 comprising the Project Application for Payment, the Work has progressed
20 to the point indicated and that, to the best of the Project Manager's
21 knowledge, information and belief, the quality and timeliness of the Work
22 is in accordance with the Contract Documents (subject to an evaluation of
23 the Work for conformance with the Contract Documents upon Completion
24 of the Work, to the results of any subsequent tests required by or
25 performed under the Contract Documents, to minor deviations from the
26 Contract Documents correctable prior to completion, and to any specific
27 qualifications stated in the Certificate); and that based upon all currently
28 available information, the Contractor is entitled to payment in the amount
29 certified. However, by issuing a Project Certificate for Payment, the
30 Project Manager shall not thereby be deemed to represent that the Project
31 Manager has made exhaustive or continuous on-site inspections to check
32 the quality or quantity of the Work, has reviewed the construction means,
33 methods, techniques, sequences or procedures, or has made any
34 examination to ascertain how or for what purpose the Contractor has used
35 the monies previously paid on account of the Work Order Price.
36

37 E. PROGRESS PAYMENTS
38

39 1. After the Project Manager has issued a Project Certificate for Payment,
40 the Owner shall make payment in the manner and within the time provided
41 in the Contract Documents.
42

43 2. The Contractor shall promptly pay each Subcontractor upon receipt of
44 payment from the Owner, out of the amount paid to the Contractor on
45 account of such Subcontractor's Work, the amount to which Subcontractor
46 is entitled, reflecting the percentage actually retained, if any, from
47 payments to the Contract on account of such Subcontractor's Work. The
48 Contractor shall, by an appropriate agreement with each Subcontractor,
49 require each Subcontractor to make payments to their Sub-subcontractors
50 in similar manner.
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3. The Project Manager may on request of any Subcontractor, at the Project Manager's discretion, furnish to that Subcontractor, if practicable, information regarding the percentages of completion or the amounts applied for by the Contractor and the action taken thereon by the Project Manager on account of Work done by such Subcontractor.
4. Neither the Owner nor the Project Manager shall have any obligation to pay or to see to the payment of any monies to any Subcontractor or Material Suppliers except as may otherwise be required by law.
5. Neither certification of a progress payment, delivery of a progress payment, nor partial or entire use or occupancy of the Project by the Owner, shall constitute an acceptance of any Work not performed in accordance with the Contract Documents.

F. PAYMENTS WITHHELD

1. The Project Manager may decline to certify payment and may withhold the Certificate in whole or in part to the extent necessary to reasonably protect the Owner, if, in the Project Manager's opinion, the Project Manager is unable to make representations to the Owner as provided herein above for Certificates for Payment. If the Project Manager is unable to make representations to the Owner and certify payment in the amount of the Project Application, the Project Manager will notify the Contractor as provided herein. If the Contractor and the Project Manager cannot agree on a revised amount, the Project Manager will promptly issue a Project Certificate for Payment for the amount for which the Project Manager is able to make such representations to the Owner. The Project Manager may also decline to certify payment or, because of subsequently discovered evidence or subsequent observations, the Project Manager may nullify the whole or any part of any Project Certificate for Payment previously issued to such extent as may be necessary, in the Project Manager's opinion, to protect the Owner from loss because of:
 - a. Defective Work not remedied;
 - b. Third party claims filed or reasonable evidence indicating probable filing of such claims, including claims by separate contractors;
 - c. Failure of the Contractor to make payments properly to Subcontractors, or for labor, materials or equipment;
 - d. Architect's determination, based upon reasonable evidence, that the Work cannot be completed for the unpaid balance of the Contract Sum;
 - e. Damage to the Owner or another contractor;
 - f. Architect's determination, based upon reasonable evidence, that the Work will not be accomplished in compliance with the Work Order Completion Time;
 - g. Persistent failure to carry out the Work in accordance with the Contract Documents;
 - h. Failure of the Contractor to submit Construction Schedules or Submittal and Procurement Schedules as required;

- i. Failure of the Contractor to maintain record drawings on a current basis;
- j. Failure of the Contractor to submit notarized lien waivers from each Subcontractor, materials or equipment supplier;
- k. Failure of the Contractor to submit certified payroll reports;
- l. Stop notice served upon the Owner.

- 2. A retention in the amount of one-thousand dollars (\$1,000) will be withheld from the Contractor's monthly progress payment for each and every required document not submitted in a timely manner by the Contractor or its subcontractors up to a maximum of ten-thousand dollars (\$10,000). For purposes of this Paragraph, the term "required document" includes, but is not limited to, certified payrolls, labor compliance documents, Disadvantaged Business Enterprise documents, and any other information or documents required to be submitted by the Contractor or any of its subcontractors under the terms of this Agreement or pursuant to applicable federal, state or local laws or regulations. The retention provided for in this Paragraph shall be in addition to any other deduction or retention allowed under this Agreement, and shall be in addition to any other remedy or consequence provided by law for untimely submission of any required document. Such retention shall remain in effect only until such time as the required documents have been submitted by the Contractor or its subcontractor(s) and have been determined by the Owner to be both complete and acceptable as to form.
- 3. When the grounds as noted above are removed, payment shall be made for amounts withheld on the basis thereof.

G. COMPLETION AND FINAL PAYMENT

- 1. Following the Contractor's completion of the Work of each individual Work Order, the Contractor shall forward to the Project Manager a written notice that the Work is ready for final inspection and acceptance, and shall also forward to the Project Manager a final Application for Payment. Upon receipt, the Project Manager will promptly make such inspection. When the Project Manager finds the Work acceptable under the Contract documents and the Contract fully performed, the Project Manager will issue a Project Certificate for Payment which will certify the final payment due the Contractor. This certification will constitute a representation that, to the best of the Project Manager's knowledge, information and belief, and on the basis of observations and inspections, the Work has been completed in accordance with the Terms and Conditions of the Contract Documents and that the entire balance found to be due the Contractor, and noted in said Certificate, is due and payable. The Project Manager's certification of said Project Certificate for Payment will constitute a further representation that the conditions precedent to the Contractor's being entitled to final payment as set forth herein below have been fulfilled.
- 2. Neither the final payment on each individual Work Order nor the remaining retainage shall become due until the Contractor submits to the Project Manager (1) an affidavit that all payrolls, bills for materials and equipment,

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and other indebtedness connected with the Work for which the Owner or the Owner's property might in any way be responsible, have been paid or otherwise satisfied, (2) consent of surety, if any, to final payment, and (3) other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the Contract, to the extent and in such form as may be designated by the Owner. If any Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against any such lien. The bond cannot be from the original surety insurer for the project or any affiliate of the original surety. If any such lien remains unsatisfied after all payments are made, the Contractor shall refund to the Owner all monies that the latter may be compelled to pay in discharging such lien.

3. All provisions of this Agreement, including without limitation those establishing obligations and procedures, shall remain in full force and effect notwithstanding the making or acceptance of final payment, and the making of final payment shall not constitute a waiver of any claims by the Owner.
4. Upon completion and acceptance of all work whatsoever required on each individual Work Order, and upon the release of all claims against the Owner as specified, the Owner shall file a written Notice of Completion with the County Recorder as to the entire amount of work performed for each individual Project.
5. Final payment will be released within sixty (60) days after the date of acceptance of the Work as reflected in the Notice of Completion filed with the County Recorder's Office; provided, that Owner may withhold from the final payment, in the event of a dispute between Owner and Contractor, retentions in and amount not exceeding 150 percent of the disputed amount. At the Contractor's option, the Owner may release retention upon receipt of an unconditional lien release for the full value of the Work Order and any of its Supplemental Work Orders.
6. All manufacturers' warranties required by the Contract Documents shall commence on the date of the Notice of Completion for the Work. It shall be the Contractor's responsibility, through appropriate contractual arrangements with all subcontractors, materialmen and suppliers, to ensure compliance with this requirement.
7. The acceptance by the Contractor of the final payment, after the date of Notice of Completion of the Project, shall be and shall operate as a release to the Owner of all claims and of all liability to the Contractor, under the Contract Documents or otherwise, for all things done or furnished in connection with this Work, excepting only the Contractor's claims for interest upon final payment, if such final payment be improperly delayed. No payments, however, final or otherwise, shall operate to release the Contractor or his/her sureties from any obligations under the Contract Documents, including but not limited to the Performance and Payment Bonds.

1
2 2.25 CHANGES TO THE WORK
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- 4 A. The Owner, without invalidating the Contract or a Work Order, may order changes
5 in the Work within the general scope of the Contract consisting of additions,
6 deletion or other revisions. All such changes in the Work shall be authorized by a
7 Supplemental Work Order, and shall be performed under the applicable
8 conditions of the Contract Documents.
9
- 10 B. SUPPLEMENTAL Work ORDER: A Work Order issued to add or delete Work
11 from an existing, related Work Order. Only an executed Supplemental Work
12 Order will effectuate change in either the Work Order Price and/or the Work Order
13 Time.
14
- 15 C. All claims for additional compensation to the Contractor shall be presented in
16 writing before the expense is incurred and will be adjusted as provided herein. No
17 work shall be allowed to lag pending such adjustment, but shall be promptly
18 executed as directed, even if a disputed claim arises. No claim will be considered
19 after the work in question has been done unless a Supplemental Work Order has
20 been issued or a timely written notice of claim has been made by Contractor.
21
- 22 D. Supplemental Work Orders are developed by the same method as a Work Order
23 as provided under Section 2.09.A, Procedures for Developing a Work Order.
24
- 25 E. The value of tasks deleted from the Detailed Scope of Work shall be calculated
26 according to the standard procedures for calculating all Pre-priced Tasks and Non
27 Pre-priced Tasks. The result is that a credit for Tasks that have been deleted from
28 the Detailed Scope of Work will be given at 100% of the value at which they were
29 included in the original Price Proposal.
30

31
32 2.26 NOT USED
33

34
35 2.27 SITE CONDITIONS
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- 37 A. Where investigations have been conducted by the Owner of existing conditions
38 on a site, including subsurface conditions, such investigations are made for the
39 purpose of design only and for the information of bidders. The results of such
40 investigations represent only the statement by the Owner as to the circumstance
41 and character of materials actually encountered by the Owner during the
42 investigations. The Owner makes no guarantee or warranty, express or implied,
43 that the conditions indicated are representative of conditions existing throughout
44 the site of a Project or any part of it, or that unanticipated conditions might not
45 occur.
46
- 47 B. All excavation work shall be performed on an "unclassified basis"; that is, such
48 work shall include the removal of all material encountered including earth or rock
49 formations, regardless of the type or hardness thereof, or groundwater conditions
50 in the excavation, the cost of such excavations being included in the Work Order
51 Price. Unclassified excavation Work includes drilling or blasting operations.

- 1
2 C. If site conditions are discovered that materially differ from previous information
3 that the Contractor has received, and that could not have been discovered by the
4 Contractor through prudent and reasonable investigation prior to developing the
5 Work Order Price Proposal for the work, the Contractor shall be compensated for
6 additional costs incurred in working with the unknown site conditions, but only to
7 the extent that such previously unknown and undiscoverable site conditions cause
8 the Contractor to incur costs in addition to the Work Order price for that portion of
9 the work. The Contractor must be able to demonstrate clearly the original Work
10 Order price for that portion of the work (plus any Supplemental Work Orders
11 applicable to that portion of the work) and the additional costs incurred as a direct
12 result of the unknown site conditions. Only additional costs over and above the
13 amount of the Work Order price for that portion of the work will be compensated
14 upon a recommendation of approval by the Project Manager.
15

16
17 2.28 REQUEST FOR EQUITABLE ADJUSTMENT
18

- 19 A. If the Contractor considers a Request for Equitable Adjustment is justified for any
20 increase in the Work Order Time, the Contractor shall promptly, upon first
21 observance of the condition giving rise to the request, provide the Project
22 Manager and Owner written notice of such condition and circumstance. This
23 notice shall be given by the Contractor before proceeding to execute the Work,
24 except in emergency endangering life or property, in which case the Contractor
25 shall proceed in accordance with the Emergency provisions of these General
26 Conditions. No such request shall be valid unless so made. A Supplemental Work
27 Order shall be required to authorize any change in the Work Order Time resulting
28 from such request for equitable adjustment.
29
30 B. If the Contractor requests that additional cost or time is involved because of, but
31 not limited to, (1) any written interpretation pursuant to Section 2.07.G, (2) any
32 order by the Owner to stop the Work pursuant to Section 2.08 where the
33 Contractor was not at fault, or any such order by the Project Manager as the
34 Owner's agent, (3) any written order for a minor change in the Work issued
35 pursuant to Section 2.29, the Contractor shall make such request for equitable
36 adjustment as provided in Section 2.28.A.
37

38
39 2.29 MINOR CHANGES IN THE WORK
40

41 The Project Manager will have authority to order minor changes in the Work not involving
42 an adjustment in the Work Order Price or extension of the Work Order Time and not
43 inconsistent with the intent of the Contract Documents. Such changes shall be enacted
44 by written order issued through the Project Manager, and shall be binding on the Owner
45 and the Contractor. The Contractor shall carry out such written orders promptly.
46

47
48 2.30 SUCCESSORS AND ASSIGNS
49

50 The Owner and the Contractor, respectively, bind themselves, their partners, successors,
51 assigns and legal representatives to the other party hereto and to the partners,

1 successors, assigns and legal representatives of such other party with respect to all
2 covenants, agreements and obligations contained in the Contract Documents. Neither
3 party to the Contract shall assign the Contract or sublet it as a whole without the written
4 consent of the other.
5

6
7 2.31 ASSIGNMENT OF MONEYS

8
9 The Contractor shall not assign moneys due or to become due him/her under the contract
10 without the written consent of the Auditor-Controller of Fresno County. Any assignment
11 of moneys shall be subject to all proper set-offs in favor of the County of Fresno and to
12 all deductions provided for in the contract and particularly all money withheld, whether
13 assigned or not, shall be subject to being used by the County of Fresno for the completion
14 of the work in the event that the Contractor should be in default therein.
15

16
17 2.32 GUARANTEE OF WORK

18
19 A. The Contractor warrants to the Owner that all materials and equipment and the
20 work as a whole furnished under this Contract will be new unless otherwise
21 specified, and that all Work will be of good quality, free from faults and defects
22 and in conformance with the Contract Documents, for one (1) year from the date
23 of Notice of Completion of each Project, unless a longer period is otherwise
24 specified. All manufacturer's warranties required by the Contract Documents shall
25 commence on the date of the filing of the Notice of Completion for the Work (which
26 date necessarily will follow the performance under separate contracts. It shall be
27 the Contractor's responsibility, through appropriate contractual arrangements with
28 all subcontractors, material manufacturers and suppliers, to ensure compliance
29 with this requirement. All Work not conforming to these requirements, including
30 substitutions not properly reviewed and authorized, may be considered defective.
31 If required by the Project Manager, the Contractor shall furnish satisfactory
32 evidence as to the kind and quality of materials and equipment.
33

34 B. If repairs or changes are required in connection with guaranteed work within any
35 guaranteed period, which, in the opinion of the Project Manager is rendered
36 necessary as the result of the use of materials, equipment or workmanship which
37 are inferior, defective, or not in accordance with the Contract Documents, the
38 Contractor shall, promptly upon receipt of notice from the Owner, and without
39 expense to the Owner (1) place in satisfactory condition in every particular all of
40 such guaranteed work, correct all defects therein, and (2) make good all damage
41 to the building or site, or equipment or contents thereof, which, in the opinion of
42 the Project Manager, is the result of the use of materials, equipment or
43 workmanship which are inferior, defective, or not in accordance with the Contract
44 Documents; and (3) make good any work or materials, or the equipment and
45 contents of said building or site disturbed in fulfilling any such guarantee.
46

47 C. If the Contractor disturbs any work guaranteed under another contract in fulfilling
48 the requirements of the contract or of any guarantee, embraced in or required
49 thereby, he/she shall restore such disturbed work to a condition satisfactory to the
50 Project Manager and guarantee such restored work to the same extent as it was
51 guaranteed under such other contract.

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- D. The Owner may have the defects corrected if the Contractor, after notice, fails to proceed promptly to comply with the terms of the guarantee and the Contractor and his/her surety shall be liable for all costs and expenses incurred in connection therewith.
- E. All special guarantees applicable to definite parts of the work that may be stipulated in the Contract Documents shall be subject to the terms of this Article 2.32 during the first (1st) year (365 Calendar Days) of the life of such special guarantee.

2.33 RESPONSIBILITY FOR DAMAGE

- A. Neither the Owner, the Architect, nor any officer or employee of the County, or officer or employee thereof, within the limits of which the work is being performed, shall be answerable or accountable in any manner, for any loss or damage that may happen to the work or any part thereof; or for any of the materials or other things used or employed in performing the work; or for injury to any person or persons, either workmen or the public, for damage to property from any cause which might have been prevented by the Contractor, or his/her workmen, or anyone employed by him/her, against all of which injuries or damages to persons and property the Contractor having control over such work must properly guard.
- B. The Contractor shall be responsible for any liability imposed by law for any damage to any person or property resulting from defects or obstructions or from any cause whatsoever during the progress of the work or at any time before the issuance of the Notice of Completion.
- C. The Contractor shall indemnify and hold harmless the Owner, the Project Manager, the Architect, and all of their respective officers and employees, from all claims, lawsuits or actions of every kind and nature whatsoever, brought for, or on account of any injuries or damages received or sustained by any person or persons, resulting from any act or admission by the Contractor or his/her servants or agents, in the construction of the work or by or in consequence of any negligence in guarding the same, in improper materials used in its construction, or by or on account of any act or omission of the Contractor or his/her agents in the performance of Contractor's obligations under the Contract Documents. In addition to any remedy authorized by law, so much of the money due the Contractor under and by virtue of the contract as shall be considered necessary by the Owner may be retained by the Owner until disposition has been made of such claims, lawsuits or actions for damages as aforesaid.

2.34 WRITTEN NOTICE

Subject to any additional requirements that may be applicable to claims under the immediately following Article 2.35 RESOLUTION OF CONTRACT CLAIMS AND DISPUTES, formal service, when required, of written notice shall be deemed to have been duly served if delivered in person, to the individual or member of the firm or entity or to an officer of the corporation for whom it was intended, or if sent by registered or certified mail to the listed address of that entity for the attention of such individual.

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3 2.35 RESOLUTION OF CONTRACT CLAIMS AND DISPUTES
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- 5 A. A Claim is a demand or assertion sent by registered mail or certified mail with
6 return receipt requested by one (1) of the parties seeking, as a matter of right,
7 adjustment or interpretation of Contract terms, payment of money, extension of
8 time, or a request for equitable adjustment or Supplemental Work Order which
9 cannot be resolved per provisions of Section 2.25 - CHANGES TO THE WORK.
10 Any Claim shall be reduced to writing and filed with the Project Manager, within
11 ten (10) calendar days after the Contractor has notice of the condition giving rise
12 to the Claim, and final action per Section 2.25 - CHANGES TO THE WORK
13 procedures has taken place or has been declared as such in writing, by either
14 party. Such ten (10)-day notice of an asserted claim is in addition to the
15 requirement for prompt notice required per Section 2.25 - CHANGES TO THE
16 WORK.
17
18 B. The Contractor shall not claim or recover any overhead cost administrative or
19 otherwise, particularly 'Home Office' expenses, 'Extended site overhead', or any
20 other overhead cost on the basis of any 'Home Office' damages formula, 'Eichleay'
21 formula, 'Total Cost' recovery formula or any other such formula.
22
23 C. REQUIREMENTS FOR FILING A CLAIM. Claims shall be submitted to the
24 Project Manager. Claims must be filed within the time specified above, but in no
25 event shall any claim be considered by the Project Manager that is filed later than
26 the date of final payment of the Project. The claim shall be in writing and shall be
27 a sum certain if known. If unknown, Contractor shall specify the basis for
28 establishing the sum certain. Claim shall include a statement of the reasons for
29 the asserted entitlement, and include the documents necessary to substantiate
30 the claim. Such documents may include but are not limited to payroll records,
31 purchase orders, quotations, invoices, estimates, subcontracts, daily logs,
32 supplier contracts, subcontract billings, bid takeoffs, equipment rental invoices,
33 ledgers, journals, daily reports, job diaries, and any documentation related to the
34 requirements of Section 2.25 - CHANGES TO THE WORK. In the case of a
35 continuing delay, only one (1) claim is necessary. If adverse weather conditions
36 are the basis for a claim for additional time, such claim shall be documented by
37 data substantiating that weather conditions were abnormal for the period of time
38 and could not have been reasonably anticipated, and that weather conditions had
39 an adverse effect on the critical activities on the construction schedule. The
40 Contractor shall certify, at the time of submission of a claim, as follows:

41
42 "I, _____, being the _____
43 _____ (MUST BE AN OFFICER) of
44 _____ (GENERAL CONTRACTOR),
45 declare under penalty of perjury under the laws of the State of California,
46 and do personally certify and attest that: I have thoroughly reviewed the
47 attached claim for additional compensation and/or extension of time, and
48 know its contents, and said claim is made in good faith; The supporting
49 data is truthful and accurate; That the amount requested accurately
50 reflects the contract adjustment for which the Contractor believes the
51 Owner is liable; and, further, that I am familiar with California Penal Code

1 Section 72 and California Government Code Section 12560, et seq,
2 pertaining to false claims, and further know and understand that
3 submission or certification of a false claim may lead to fines, imprisonment
4 and/or other severe legal consequences.
5

6 By: _____
7 (Contractor's signature) (Date)
8

9 D. Nothing in this Article is intended to extend the time limit or supersede notice
10 requirements otherwise provided by this contract or by applicable law for the filing
11 of claims. Any formal claim shall be processed in accordance with the provisions
12 of Public Contract Code Section 9204 and Section 20104 et. seq., each of which
13 establishes a process for resolution of claims, the provisions of which are
14 consistent with and effectively summarized by the following
15

- 16 1. The Owner (or his/her designee), shall review the facts pertinent to the
17 claim, obtain additional information deemed necessary for a decision (if
18 any), review recommendations of the Project Manager, coordinate with the
19 contract administrator (if any) and secure assistance from legal and other
20 advisors, and render a written decision on the claim within forty-five (45)
21 days of receipt of the claim. If additional information or documentation is
22 thereafter required, it shall be requested and provided pursuant to this
23 subdivision, upon mutual agreement of the Owner (or his/her designee)
24 and claimant. The Owner's (or his/her designee's) written response to the
25 claim, as supplemented by any additional information and/or
26 documentation provided by claimant, shall be submitted to the claimant
27 within fifteen (15) days after receipt of the further information and/or
28 documentation or within a period of time no greater than that taken by the
29 claimant in producing the additional information, whichever is greater.
30
- 31 2. If the claimant disputes the written response of Owner (or his/her
32 designee), or Owner fails to respond within the time prescribed, the
33 claimant may so notify the Owner (or his/her designee), in writing, either
34 within fifteen (15) days of receipt of the Owner (or his/her designee's)
35 response or within fifteen (15) days of the Owner (or his/her designee's)
36 failure to respond within the time prescribed, respectively, and demand an
37 informal conference to meet and confer for settlement of the issues in
38 dispute. Upon a demand, the Owner (or his/her designee) shall schedule
39 a meet and confer conference within thirty (30) days for settlement of the
40 dispute.
41
- 42 3. Within ten (10) business days following conclusion of the meet and confer
43 conference, any unpaid portion of the claim remaining in dispute shall be
44 submitted to nonbinding mediation, as that term is defined by Public
45 Contract Code Section 9204(d)((2)(C)).
46
- 47 4. If following the conclusion of the meet and confer conference and
48 mediation process, the claim or any portion thereof remains in dispute, the
49 claimant may file a claim pursuant to Chapter 1 (commencing with Section
50 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division
51 3.6 of Title 1 of the Government Code. For purposes of those provisions,

1 the running of the period of time within which a claim must be filed shall
2 be tolled from the time the claimant submits his/her written claim pursuant
3 to subdivision (a) until the time the claim is denied, including any period of
4 time utilized by the meet and confer conference and mediation process as
5 described in the immediately preceding Paragraphs 2 and 3 of this Section
6 D.

7
8 5. In the event of any perceived conflict between the summary of the
9 procedure set forth in this Article and the actual provisions of the Public
10 Contract Code Section 9204 and Section 20104, et seq., the statutory
11 provisions shall control; and in the event of any perceived conflict
12 between the provisions of Section 9204 and Section 20104, et seq., the
13 provisions of Section 9204 shall control.
14

15 E. Procedures for Civil Actions to Resolve Disputed Claims: Non-binding Mediation:
16 Within sixty (60) days, but no earlier than thirty (30) days, following the filing of a
17 responsive pleading, the court shall submit the matter to non-binding mediation
18 unless waived by mutual stipulation by both parties. The mediation process shall
19 provide for the selection within fifteen (15) days by both parties of a disinterested
20 third person as mediator, shall be commenced within thirty (30) days of the
21 submittal, and shall be concluded within fifteen (15) days from the commencement
22 of the mediation unless a time requirement is extended upon a good cause shown
23 to the court. If the parties fail to select a mediator within the 15-day period, any
24 party may petition the court to appoint the mediator.
25

26 Judicial Arbitration: If the matter remains in dispute, the case shall be submitted
27 to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10)
28 of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11
29 of the code. The Civil Discovery Act of 1986 (Article 3 (commencing with Section
30 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure) shall apply
31 to any proceeding brought under this subsection consistent with the rules
32 pertaining to judicial arbitration. Arbitrators shall be experienced in construction
33 law.
34

35 Appeals: As provided by statute (specifically Public Contract Code section
36 20104.4(b)(3) and Code of Civil Procedure section 1141.21), any party appealing
37 an arbitration award who does not obtain a more favorable judgment shall, in
38 addition to payment of costs and fees, also pay the attorneys' fees on appeal of
39 the other party.
40

41 F. CLAIMS AND DISPUTES EXEMPT FROM FILING REQUIREMENTS. The
42 requirements and procedures imposed by this Article do not apply to:
43

- 44 1. Any claims by the Owner; or
- 45 2. Any claim for or respecting personal injury or death or reimbursement or
46 other compensation arising out of or resulting from liability for personal
47 injury or death; or
- 48 3. Any claim or dispute relating to stop payment requests or stop notices; or
49
50
51

1 4. Any claim or dispute related to the approval, refusal to approve, or
2 substitution of Subcontractors, regardless of tier, and suppliers.
3

4
5 G. PAYMENT OF UNDISPUTED PORTION OF CLAIM. Owner shall pay claimant
6 such portion of a claim that is undisputed except as otherwise provided in the
7 contract.
8

9 H. CONTINUE WORK DURING DISPUTE. In the event of any disputed claim or
10 other dispute between the Owner and the Contractor, the Contractor will not stop
11 work but will prosecute the work diligently to completion in his/her manner directed
12 by the Owner, and the dispute shall be resolved by a court of law after completion
13 of the Work. However, Contractor must submit all disputes in accordance with
14 the provisions of this Section 2.35.
15

16 I. SUIT IN FRESNO COUNTY ONLY. Any litigation arising out of this Contract shall
17 be brought in Fresno County and Contractor hereby waives the removal
18 provisions of California Code of Civil Procedure Section 394.
19

20
21 2.36 PERFORMANCE BOND, LABOR AND MATERIAL PAYMENT BOND AND
22 WARRANTY BOND
23

24 A. The Contractor shall furnish Performance Bond in the amount of one hundred
25 percent (100%) of the Contract Sum, and Payment Bond in the amount of one
26 hundred percent (100%) of the Contract Sum and One Year Warranty Bond in the
27 amount of ten percent (10%) of the Final Contract Sum, which is the cumulative
28 amount that will have been paid to Contractor for all of the Work performed under
29 the Contract once the Project has been completed and the Work has been
30 accepted by the County.
31

32 B. All bonds required, whether Bid bonds, Performance, Payment, Warranty or other
33 bonds, shall be issued by an admitted surety insurer authorized by the California
34 Insurance Commissioner to transact surety insurance in the state. The same
35 admitted surety insurer must issue the Bid Bond, Performance Bond, Payment
36 Bond, and Warranty Bond. The payment, performance and warranty bonds
37 required by these specifications will neither be accepted nor approved by the
38 Owner unless the bonds are underwritten by an admitted surety and the
39 requirements of California Code of Civil Procedure section 995.630 are met. The
40 bonds must include a physical mailing address, phone number, FAX number, and
41 contract person for the admitted surety insurer. The Owner further reserves the
42 right to satisfy itself as to the acceptability of the surety and the form of bond.
43 Upon request of the Owner, the bidder must submit the following documents:
44

45 1. The original, or a certified copy, of the unrevoked appointment, power of
46 attorney, bylaws, or other instrument authorizing the person who executed
47 the bond to do so.
48

49 2. A certified copy of the certificate of authority of the insurer issued by the
50 California Insurance Commissioner.
51

- 1 3. A certificate from the county clerk that the certificate of authority has not
2 been surrendered, revoked, canceled, annulled, or suspended, or in the
3 event that it has, that renewed authority has been granted.
4
5 4. A financial statement of the assets and liabilities of the insurer to the end
6 of the quarter calendar year prior to thirty (30) days next preceding the
7 date of the execution of the bond, in the form of an officers' certificate as
8 defined in Corporations Code section 173.
9

10
11 2.37 RIGHTS AND REMEDIES
12

- 13 A. The duties and obligations imposed by the Contract Documents and the rights
14 and remedies available hereunder shall be in addition to, and not a limitation of,
15 any duties, obligations, rights and remedies otherwise imposed or available by
16 law.
17
18 B. No action or failure to act by the Owner, or by the Project Manager or Architect,
19 regarding any deficiency, breach or default in performance by the Contractor
20 under the Contract Documents, shall be deemed or construed to constitute
21 acquiescence of the Owner in connection therewith or with regard to any
22 subsequent deficiency, breach or default in performance by the Contractor; nor
23 shall any such prior act of failure to act by or on behalf of Owner be deemed or
24 construed as a waiver of any rights in favor of Owner regarding any such
25 deficiency, breach or default in performance by the Contractor, regardless of the
26 similarity to the prior incident or circumstance when no action was taken regarding
27 any alleged deficiency, breach or default in performance by the Contractor.
28
29

30 2.38 TIME, DELAYS AND LIQUIDATED DAMAGES
31

32 A. DEFINITIONS
33

- 34 1. Unless otherwise provided, the Work Order Completion Time is the period
35 of time allotted in the Contract Documents for completion of the Work of
36 an individual work Order, including authorized adjustments thereto.
37
38 2. The Date of Commencement of the Work is the date established in the
39 Notice to Proceed.
40
41 3. The Date of Completion of the Work is the date of which the work is
42 certified as complete by the Project Manager as specified in the Notice of
43 Completion.
44
45 4. The term "day" as used in the Contract Documents shall mean calendar
46 day unless specifically designated otherwise.
47

48 B. PROGRESS AND COMPLETION
49

- 50 1. Time is of the essence regarding all time limits stated in the Work Order
51 Notice to Proceed. By executing the Work Order, the Contractor confirms

1 that the Work Order Completion Time is a reasonable period for
2 performing the Work of the individual Work Order.

- 3
- 4 2. The Contractor shall begin the Work on the Date of Commencement. The
5 Contractor shall not knowingly, except by agreement or instruction of the
6 Owner in writing, prematurely commence operations on the site or
7 elsewhere prior to the effective date of insurance required herein to be
8 furnished by the Contractor. The Date of Commencement of the Work
9 shall not be changed by the effective date of such insurance.
- 10
- 11 3. The Contractor shall carry the Work forward expeditiously with adequate
12 forces and shall achieve Completion of the Work within the Work Order
13 Completion Time.
- 14

15 C. DELAYS AND EXTENSIONS OF TIME

- 16
- 17 1. Delays in prosecution of parts or classes of the Work that are not
18 demonstrated to prevent or delay completion of an entire Project or
19 specific milestones within the Work Order Completion Time are not
20 "unavoidable delays" for purposes of this section.
- 21
- 22 2. In all cases, the time authorized for extension of the Work Order
23 Completion Time shall be no greater than the number of days directly
24 attributable to the event or circumstances which causes unavoidable delay
25 in the completion of a Project. Contractor shall be entitled, in the case of
26 unavoidable delays, to an extension in the Work Order Completion Time,
27 but not to any increase to the Work Order Price. "Unavoidable delay" for
28 this purpose shall be defined as follows:
- 29
- 30 a. Unavailable Materials. That materials or articles called for in the
31 Contract Documents are not obtainable within the time required for
32 timely completion; provided that such materials or articles were
33 listed by the Contractor in the schedule required by Section 2.17 -
34 CONTRACTOR'S CONSTRUCTION SCHEDULE; that the
35 Contractor demonstrates that the unavailability of the materials is
36 in fact the cause for the delay, and could not have been avoided
37 by an appropriate adjustment in the Construction Schedule; and
38 that the unavailability of such materials is due to circumstances
39 beyond the Contractor's control. If good cause for delay is
40 demonstrated pursuant to this subsection, the Owner, at its sole
41 discretion, may grant a time extension.
- 42
- 43 b. Force Majeure. That delays in construction have resulted from
44 circumstances beyond the control of the Contractor and which the
45 Contractor could not have provided against by the exercise of
46 reasonable care, prudence, foresight, and diligence. Unavoidable
47 delays within the meaning of this subparagraph shall be those
48 caused by acts of God, war, insurrection, civil disorder, fire, floods,
49 epidemic, or strikes.
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- c. Unseasonable Weather. An extension of Work Order Completion Time may be granted due to weather which is unsuitable for the Work currently in progress, upon the determination of the Owner that the weather conditions in fact caused the delay in completion of a Project and that such weather conditions were not, and could not in the exercise of reasonable diligence, have been foreseen by the Contractor. Seasonable weather that, in the exercise of reasonable foresight and diligence, should be expected in the area at the time of year in question is not cause for an extension of time.

 - d. Time Extensions Due to Supplemental Work Orders or Work Authorizations. A time extension may be granted due to additional work that results in a delay in a Project caused by the approval by the Owner of a Supplemental Work Order or Work Authorization. The Contractor shall be entitled to a Work Order Completion Time extension Supplemental Work Order only when the extra Work is demonstrated by the Contractor to have caused a delay in a Project.

 - e. Owner Caused Delays. In the event that a Project is delayed by acts of the Owner not authorized by the Contract Documents which the Contractor demonstrates will or have caused an unavoidable delay, the Contractor shall be entitled to a Work Order Completion Time Supplemental Work Order to offset the extra time incurred by the Contractor. The Contractor will not be entitled to adjustments in the Work Order Price. Extra time shall be limited to that which is directly identified as critical by the delay.
- 4. The Contractor specifically agrees that a time extension as provided herein is its sole remedy for Owner-caused delays, and agrees to make no claim or demand for additional damages, nor claim an acceleration of the time for performance.

 - 5. The Contractor shall not be entitled to any Work Order Completion Time extension nor Work Order Price adjustment for alleged Owner delays if the Owner has acted within the time limits specified by the Contract Documents.

D. NOTICE OF DELAYS

- 1. Contractor shall notify the Project Manager promptly whenever the Contractor foresees any event or circumstance that may delay the prosecution of the Work and in Contractor's opinion may provide grounds for an extension, and shall in any event notify the Project Manager immediately upon the occurrence of any such delay. The Contractor shall take immediate steps to prevent, if possible, the occurrence or continuance of the delay. If this cannot be done, the Project Manager shall determine how long the delay shall continue and to what extent the prosecution and completion of the Work are being delayed thereby. Such notification shall specify with detail the cause asserted by the Contractor to constitute grounds for an extension. Failure of the Contractor to submit

1 such a notice within ten (10) days after the initial occurrence of the event-
2 giving rise to the delay shall constitute a waiver by the Contractor of any
3 request for a time extension, and no extension shall be granted as a
4 consequence of such delay.
5

- 6 2. If the Contractor believes that the delay in prosecution in the Work will
7 result in an unavoidable delay in completion of the entire Project, the
8 Contractor shall submit evidence to support that belief, together with its
9 request for a time extension. Such evidence shall include a demonstration
10 that the delayed portion of the Work will affect the Critical Path Scheduling
11 of the entire Project. The Contractor shall also submit a proposed revised
12 Construction Schedule, which accounts for the delay in completion of the
13 entire Project caused by the delay in prosecution of part of the Project, and
14 includes a revised Critical Path demonstrating how the Project will be
15 completed within the proposed revised Work Order Completion Time.
16

17 E. INVESTIGATION; PROCEDURE.
18

- 19 1. Upon receipt of a request for Time extension, the Project Manager shall
20 conduct an investigation of the facts asserted by the Contractor to
21 constitute grounds for an extension. The results of this investigation shall
22 be reported by the Project Manager to the Contractor and shall indicate
23 whether he/she will recommend for or against such extension to the
24 Owner. The performance of this investigation by the Project Manager shall
25 not be construed as direction or recommendation to the Contractor
26 regarding scheduling of the work. Scheduling this work is the sole
27 responsibility of the Contractor.
28
- 29 2. The Project Manager may, in his/her sole discretion, defer this
30 recommendation to allow the accumulation of time extensions due to Work
31 Authorizations into a periodic or final Supplemental Work Order request.
32
- 33 3. Upon receiving the Project Manager's recommendation to the Owner
34 regarding the Contractor's request for a time extension, the Contractor
35 may either withdraw its application for extension or request that it be
36 scheduled for action by the Owner. If the Owner disallows the request,
37 there shall be no allowance made for the time during which the request
38 was pending, and the Contractor shall remain obligated to complete the
39 Work in the time specified.
40
- 41 4. If the Owner approves the time extension Supplemental Work Order, the
42 new Construction Schedule submitted by the Contractor and approved by
43 the Owner shall be deemed to amend the original Construction Schedule
44 approved by the Owner; thereafter, the amended Construction Schedule
45 shall have the same force and effect as the originally approved Progress
46 Schedule.
47
- 48 5. The revised Construction Schedule must be submitted within seven (7)
49 calendar days of the date in which the Owner approves the change.
50

1 6. The Contractor agrees that the Owner's determination as to the existence
2 of grounds for an extension and, the duration of any such extension, shall
3 be final and binding upon both Owner and Contractor.
4

5 F. DISCRETIONARY TIME EXTENSION FOR BEST INTEREST OF OWNER
6

- 7 1. The Owner reserves the right to extend the Work Order Completion Time
8 for completion of the Work if the Director of Public Works and Planning or
9 designee determines that such extension is in the best interest of the
10 Owner.
11
12 2. In the event that such discretionary extension is made at the request of
13 the Contractor, the Owner shall have the right to charge to the Contractor
14 all or any part, as the Board may deem proper, of the actual cost to the
15 Owner for engineering, inspection, supervision, contract administration,
16 incidental and other overhead expenses that accrue during period of such
17 extension, and to deduct all or any portion of such amounts from the final
18 payment for the Work Order.
19
20 3. In the event such extension is ordered over the objection of the Contractor,
21 the Contractor shall be entitled to a Supplemental Work Order adjusting
22 the price paid to reflect the actual costs incurred by the Contractor as a
23 direct and proximate result of the delay, upon his/her written application
24 therefor, accompanied by such verification of costs as the Project Manager
25 requires. Only additional direct costs incurred at the site will be
26 reimbursable by Supplemental Work Order.
27

28 G. LIQUIDATED DAMAGES
29

- 30 1. If the Work is not completed by Contractor in the time specified in the Work
31 Order or within any period of extension authorized pursuant to this Article,
32 the Contractor acknowledges and admits that the Owner will suffer
33 damage, and that it is impracticable and infeasible to fix the amount of
34 actual damages. Therefore, it is agreed by and between the Contractor
35 and the Owner that the Contractor shall pay to the Owner as fixed and
36 liquidated damages, and not as a penalty, the sum specified in Section
37 005213, Agreement, Article III for each calendar day of delay until the
38 Work is completed and accepted, and that both the Contractor and the
39 Contractor's surety shall be liable for the total amount thereof, and that the
40 Owner may deduct said sums from any monies due or that may become
41 due to the Contractor.
42
43 2. This liquidated damages provision shall apply to all delays of any nature
44 whatsoever, save and except only unavoidable delays approved by the
45 Owner pursuant to the provisions of Article 2.38.C.2 hereinabove, or
46 discretionary time extensions approved by the Board of Supervisors
47 pursuant to the provisions of Article 2.38.F hereinabove.
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49 H. EXTENSION OF TIME NOT A WAIVER.
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1. Any extension of a Work Order Completion Time granted pursuant to this Article shall not constitute a waiver by the Owner, nor a release of the Contractor, from his/her obligations to perform a Work Order within the allotted Work Order Completion Time.
2. Granting of a time extension due to one (1) circumstance on one (1) request therefore shall not constitute a granting by the Owner of an extension of time for any other circumstance or the same circumstance occurring at some other time, and shall not be interpreted as a precedent for any other request for extension.

2.39 PROTECTION OF PERSONS AND PROPERTY

A. SAFETY PRECAUTIONS AND PROGRAMS

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work.

B. SAFETY OF PERSONS AND PROPERTY

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

1. All employees on the Work and all other persons who may be affected thereby;
2. All the work and all materials and equipment to be incorporated therein, whether in storage or off the site, and that is under the care, custody or control of the Contractor or any of the Contractor's Subcontractors or Sub-subcontractors;
3. Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction; and
4. The work of the Owner or other separate contractors.

C. The Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.

D. The Contractor shall erect and maintain, as required by existing conditions and the progress of the Work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent facilities.

E. When the use or storage of explosives or other hazardous materials or equipment is necessary for the execution of the Work, the Contractor shall exercise the

1 utmost care and shall carry on such activities under the supervision of properly
2 qualified personnel.

3
4 F. The Contractor shall promptly remedy all damage or loss to any property referred
5 to above caused in whole or in part by the Contractor, any Subcontractor, any
6 Sub-subcontractor, anyone directly or indirectly employed by any of them, or any
7 one for whose acts any of them may be liable, and for which the Contractor is
8 responsible under the above noted clauses, except damage or loss attributable
9 solely to the acts or omissions of the Owner, the Project Manager, or anyone
10 directly or indirectly employed by any of them, or by anyone for whose acts any
11 of them may be liable, and not attributable in any degree to the fault or negligence
12 of the Contractor. The foregoing obligations of the Contractor are in addition to
13 the Contractor's obligations under the Indemnification provisions provided herein.
14

15 G. The Contractor shall designate a responsible member of the Contractor's
16 organization at the site whose duty shall be the prevention of accidents. This
17 person shall be the Contractor's superintendent unless otherwise designated by
18 the Contractor in writing to the Owner and the Project Manager.
19

20 H. The Contractor shall not load or permit any part of the Work to be loaded
21 in a manner that could endanger its safety or pose a risk to anyone working at
22 the Project site.
23

24 I. EMERGENCIES

25 In any emergency affecting the safety of persons or property the Contractor shall
26 act, at the Contractor's discretion, to prevent threatened damage, injury or loss.
27 Any additional compensation or extension of time claimed by the Contractor on
28 account of emergency work shall be determined as provided in the provisions
29 herein for Changes in the Work.
30

31
32 2.40 INSURANCE

33
34 A. CONTRACTOR'S INSURANCE

35
36 1. Bidders' attention is directed to the insurance requirements below. It is
37 highly recommended that Bidders confer with their respective insurance
38 carriers or brokers to determine in advance of bid submission the
39 availability of the insurance certificates and endorsements required below.
40 A bidder who is awarded a contract and thereafter fails to comply strictly
41 with the insurance requirements, will be deemed to be in default of its
42 obligations.
43

44 2. Contractor shall procure, and maintain for the duration of the Contract, and
45 for 3 years thereafter, insurance against claims for injuries to persons or
46 damage to property which may arise from or in connection with the
47 performance of the work hereunder by the Contractor, his/her agents,
48 representatives, employees or Subcontractors. The cost of such
49 insurance shall be included in the Contractor's bid.
50

- 1 3. No later than ten (10) calendar days following the Award of the Contract,
2 and prior to execution of the Agreement for Construction by the Owner,
3 the Contractor shall submit certificates of insurance, signed by an
4 authorized agent of the insurer, attesting to insurance coverage of the
5 Contractor as required by this Article.
6

7 B. MINIMUM SCOPE OF INSURANCE.

8 Coverage shall be at least as broad as:
9

- 10
11 1. Insurance Services Office Commercial General Liability coverage
12 ("occurrence" form CG0001).
13
14 2. Insurance Services Office Business Auto Coverage form number CA 0001
15 0187 covering Automobile Liability, code 1 "any auto".
16
17 3. Workers' Compensation insurance as required by the Labor Code of the
18 State of California and Employers Liability insurance.
19

20
21 C. MINIMUM LIMITS OF INSURANCE.

22 Contractor shall maintain limits no less than:
23

- 24
25 1. General Liability: One million dollars (\$1,000,000.00) combined single limit
26 per occurrence for bodily injury, personal injury and property damage. If
27 Commercial General Liability Insurance or other form with a general
28 aggregate limit is used, either the general aggregate limit shall apply
29 separately to this project/location or the general aggregate limit shall be
30 three times the required occurrence limit.
31
32 2. Automobile Liability: One million dollars (\$1,000,000.00) combined single
33 limit per accident for bodily injury and property damage.
34
35 3. Workers' Compensation and Employers Liability: Workers' compensation
36 limits as required by the Labor Code of the State of California and
37 Employers Liability limits of one million dollars (\$1,000,000.00) per
38 accident.
39

40 D. DEDUCTIBLES AND SELF-INSURED RETENTIONS.

41 Any deductibles or self-insured retentions must be declared to and approved by
42 the Owner. If approved at the option of the Owner, either: the insurer shall reduce
43 or eliminate such deductibles or self-insured retentions as respects the Owner, its
44 officers, officials, employees and volunteers; or the Contractor shall procure a
45 bond guaranteeing payment of losses and related investigations, claim
46 administration and defense expense.
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49 E. OTHER INSURANCE PROVISIONS.

50 The policies are to contain, or be endorsed to contain, the following provisions:
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1. Fire Insurance / Builders Risk Insurance.

- a. At the Owner's option, the Contractor shall secure "All Risk" type Builder's Risk Insurance for the Work to be performed pursuant to this Agreement for an individual Work Order. The policy shall cover not less than losses due to fire, explosion, vehicle damage, theft, flood, earthquake and civil commotion with no coinsurance penalty provision.

- b. The Contractor shall obtain and keep in force insurance against loss or damage by fire and the customary extended perils including windstorm, hail, explosion, aircraft, vehicle, smoke, riot, and civil commotion, vandalism, sprinkler leakage (including earthquake) as covered under the standard forms of California Standard Fire Insurance Policy for school projects or Factory Insurance Association and/or Factory Mutual Insurance Company for projects other than schools. The policy shall cover the entire structure on which the work of this contract is to be done, up to the full insurable value thereof, including items of labor and materials connected therewith on the site, materials in place or to be used as part of the permanent construction including materials stored and partially paid for by the Owner as provided in Division 01 – General Requirements, surplus materials, shanties, protective fences, bridges, or temporary structures, miscellaneous materials and supplies incident to the work, and such scaffolding, staging, towers, forms and equipment as are not owned or rented by the Contractor, the cost of which is included in the cost of the work. EXCLUDED: This insurance does not cover any tools owned by mechanics, any tools, equipment, scaffolding, staging, towers, and forms owned or rented by the Contractor, the capital value of which is not included in the cost of the Work, or any structures erected for the Contractor's administration of the Project. The loss, if any, is to be adjustable with and payable to the Owner as trustee for the insured as their interests may appear, except in such cases as may require payment of all or a proportion of said insurance to be made to a mortgagee or trustee as its interest may appear.

- c. The Owner shall be named as insured jointly with the Contractor and other proper parties, all as their respective interests may appear. All subcontractors shall be insured to the extent of their portion of the work under the Contractor. The Owner, Contractor and all subcontractors waive all rights, each against the others, for damages caused by fire or other perils covered provided under the terms of this article, except such rights as they may have to the proceeds of the insurance held by the party obtaining and maintaining the insurance policy in force who acts as trustee of said policy. Certificates of such insurance shall be filed with the Owner. If the Contractor fails to effect or maintain insurance as above and so notifies the Owner, the Owner may insure his own interest and charge the cost thereof to the Contractor.

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d. In the event of a partial or total destruction by the perils insured against, of any or all of the work and/or materials herein provided for, at any time prior to the final completion of the Contract and the final acceptance by the Owner of the Work or materials to be performed or supplied thereunder, the Contractor shall promptly reconstruct, repair, replace, or restore all work or materials so destroyed or injured at his sole cost and expense. Nothing herein provided for shall in any way excuse the Contractor or his surety from the obligation of furnishing all the required materials and completing the work in full compliance with the terms of the Contract.

2. Commercial General Liability and Automobile Liability Coverages.

a. The Contractor shall secure Commercial General Liability Insurance with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence and an annual aggregate of Three Million Dollars (\$3,000,000.00). This policy shall be issued on a per occurrence basis. The Owner may require specific coverage including completed operations, product liability, contractual liability, XCU, fire legal liability or any other liability insurance deemed necessary because of the nature of the contract. The Owner, its officers, officials, employees, agents, including Consulting Engineers while performing contract administration services, and volunteers are to be covered as insured as respects all of the following: liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobiles owned, leased, hired or borrowed by or on behalf of the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the Owner, its officers, officials, employees or volunteers.

b. The Contractor's insurance coverage shall be primary insurance as respects the owner, its officers, officials, employees, agents, Consulting Engineers, and volunteers. Any insurance or self-insurance maintained by the Owner, its officers, officials, Employees, agents, Consulting Engineers, or volunteers shall be in excess of the Contractor's insurance and shall not contribute with it.

c. Any failure to comply with reporting provisions of the policies shall not affect Coverage provided to the Owner, its officers, officials, employees, agents, Engineers, Consulting Engineers, or volunteers.

d. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

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e. Such Commercial General Liability insurance shall name the County of Fresno, its officers, agents, and employees, individually and collectively, as additional insured, but only insofar as the operations under this Agreement are concerned. Such coverage for additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained by Owner, its officers, agents and employees shall be excess only and not contributing with insurance provided under Contractor's policies herein. This insurance shall not be cancelled or changed without a minimum of thirty (30) days advance written notice given to Owner. Contractor shall obtain endorsements to the Commercial General Liability insurance policy naming Owner as an additional insured and providing for a thirty (30) day prior written notice of cancellation or change in terms or coverage

f. Comprehensive Automobile Liability Insurance with limits of not less than One Million Dollars (\$1,000,000) per accident for bodily injury and property damage. Coverage should include owned and non-owned vehicles used in connection with this Agreement and all applicable endorsements.

3. Professional Liability Coverage.

If Contractor employs licensed professional staff, (e.g., Ph.D., R.N., L.C.S.W., M.F.C.C.) in providing services, the Contractor shall secure Professional Liability Insurance with limits of not less than one million dollars (\$1,000,000.00) per occurrence, and three million dollars (\$3,000,000.00) annual aggregate, with a provision for three (3) year tail coverage.

4. Worker's Compensation and Employers Liability Coverage.

The Contractor shall obtain a policy of Worker's Compensation insurance in accordance with applicable provisions of the California Labor Code. The insurer shall agree to waive all rights of subrogation against the Owner, its officers, officials, employees and volunteers for losses arising from work performed by the Contractor for the Owner. Contractor shall supply the Owner with certificates of insurance in triplicate, evidencing that Workers Compensation Insurance is in effect and providing that the Owner will receive 30 days' notice of cancellation. If Contractor self-insures Workers Compensation, Certificate of Consent to Self-Insure shall be provided to the Owner.

5. All Coverages.

Prior to the commencement of performing its obligations under this Agreement, Contractor shall provide certificates of insurance and upon request from Owner, formal endorsements for the foregoing policies, as required herein, to the Owner, listing the name and address of the official who will administer this contract, and stating that such insurance coverage

1 have been obtained and are in full force; that the County of Fresno, its
2 officers, agents and employees will not be responsible for any premiums
3 on the policies; that such Commercial General Liability insurance names
4 the County of Fresno, its officers, agents and employees, individually and
5 collectively, as additional insured, but only insofar as the operations under
6 this Agreement are concerned; that such coverage for additional insured
7 shall apply as primary insurance and any other insurance, or
8 self-insurance, maintained by Owner, its officers, agents and employees,
9 shall be excess only and not contributing with insurance provided under
10 Contractor's policies herein; and each insurance policy required by this
11 Section 2.40 shall be endorsed to state that coverage shall not be
12 suspended, voided, canceled by either party, reduced in coverage or in
13 limits except after thirty (30) days' prior written notice has been given to
14 the Owner.

15
16 F. ACCEPTABILITY OF INSURERS

17
18 Contractor shall obtain the policies and coverages specified herein from an
19 admitted insurer in good standing with and authorized to transact business in this
20 state by the California Department of Insurance, and having a **Best's rating of**
21 **no less than A FSC VIII.**

22
23 G. VERIFICATION OF COVERAGE

24
25 Contractor shall furnish the Owner with certificates of effecting coverage required
26 by this clause. The certificates for each insurance policy are to be signed by a
27 person authorized by that insurer to bind coverage on its behalf. All certificates
28 are to be received and approved by the owner before work commences. The
29 Owner reserves the right to require complete, certified copies of all required
30 insurance policies, at any time. In the event Contractor fails to keep in effect at all
31 times insurance coverage as herein provided, the Owner may, in addition to other
32 remedies it may have, suspend or terminate this Agreement upon the occurrence
33 of such event. The Certificate of Insurance shall be issued in triplicate, and
34 provided to the Owner within ten (10) days of award, and also shall be provided
35 to all other participating agencies who contribute to the cost of the work or have
36 jurisdiction over areas in which the work is to be performed and all officers and
37 employees of said agencies while acting within the course and scope of their
38 duties and responsibilities.

39
40 H. SUBCONTRACTORS

41
42 Contractor shall include all Subcontractors as insured under its policies or shall
43 furnish separate certificates and endorsements for each Subcontractor. All
44 coverages for Subcontractors shall be subject to all of the requirements stated
45 herein.

46
47
48 2.41 UNCOVERING WORK

49
50 A. This Section shall apply to any Work installed and covered up by the Contractor
51 that is required by the Building Code or other statutory or regulatory

1 requirement to undergo inspection or special inspection and/or testing approval
2 by an appropriate official representing the Owner or other public authority
3 having jurisdiction to conduct such inspection and/or testing or by any
4 requirements specifically expressed in the Contract Documents. Work covered
5 up by the Contractor, Contractor's Subcontractor's or Suppliers prior to
6 inspection/special inspection and/or testing approval shall be uncovered and
7 repaired or replaced after inspection approval at the sole expense of the
8 Contractor. This shall apply to all labor and material needed to complete both
9 physical and cosmetic repairs, and any additional inspection costs associated
10 with restoring the Work.
11

- 12 B. This Section also shall apply to any Work installed and covered up by the
13 Contractor, Contractor's Subcontractor's or Suppliers that is determined by the
14 Owner or its Project Manager, during construction or within the Warranty period,
15 to be defective, broken or inoperative. Work covered up by the Contractor,
16 Contractor's Subcontractor's or Suppliers that is found to be defective, broken or
17 inoperative shall be uncovered and repaired or replaced at the sole expense of
18 the Contractor. This shall apply to all labor and material needed to complete both
19 physical and cosmetic repairs, and any additional inspection costs associated with
20 restoring the Work.
21

22
23 2.42 CORRECTION OF WORK
24

- 25 A. The Contractor shall promptly correct all Work rejected by the Project Manager as
26 defective or as failing to conform to the Contract Documents, whether or not
27 fabricated, installed or completed. The Contractor shall submit a plan of action,
28 within twenty-four (24) hours of notification of the rejected work by the Project
29 Manager, for correcting the rejected work. The Contractor shall bear all costs of
30 correcting such rejected Work, including compensation for the Engineer's and
31 Architect's additional services made necessary thereby.
32
- 33 B. If, within one (1) year after the date of acceptance of the Work as specified in the
34 Notice of Completion, or designated portion thereof, or within one (1) year after
35 acceptance by the Owner of designated equipment, or within such longer period
36 of time as may be prescribed by the terms of any applicable special warranty
37 required by the Contract Documents, any of the Work is found by Owner to be
38 defective or not in accordance with the Contract Documents, the Contractor shall
39 correct it promptly after receipt of a written notice from the Owner to do so, unless
40 the Owner has previously given the Contractor a written acceptance of such
41 condition. This obligation shall survive both final payment for the Work or
42 designated portion thereof and termination of the Contract. The Owner shall give
43 such notice promptly after discovery of the condition.
44
- 45 C. The Contractor shall, at his/her sole expense, remove from the site all portions of
46 the Work that are defective or nonconforming and which have not been corrected
47 under Articles 2.32, 2.42.A, and 2.42.B, unless the Owner waives removal.
48
- 49 D. If the Contractor fails to submit a plan of action, within twenty-four (24) hours of
50 notification of the rejected work by the Project Manager, for correcting the rejected
51 work, or fails to correct defective or nonconforming Work as provided herein in

1 Articles 2.32, 2.42.A, and 2.42.B, the Owner may correct it in accordance with
2 Article 2.08.C.
3

4 E. If the Contractor does not take action under the plan to initiate such correction of
5 such defective or nonconforming Work within ten (10) days of written notice from
6 the Project Manager, the Owner may remove it and may store the materials or
7 equipment at the expense of the Contractor. If the Contractor does not pay the
8 cost of such removal and storage within ten (10) days thereafter, the Owner may,
9 upon ten (10) additional days' written notice, sell such Work at auction or at private
10 sale and shall account for the proceeds thereof, after deducting all the costs that
11 should have been borne by the Contractor, including compensation for the Project
12 Manager, Architect, or other Professional's additional services made necessary
13 thereby. If such proceeds of sale do not cover all costs that the Contractor should
14 have borne, the difference shall be charged to the Contractor and an appropriate
15 Supplemental Work Order shall be issued. If the payments then or thereafter due
16 the Contractor are not sufficient to cover such amount, the Contractor shall pay
17 the difference to the Owner.
18

19 F. The Contractor shall bear the cost of making good all work of the Owner or
20 separate contractors destroyed or damaged by such correction or removal.
21

22 G. Nothing contained in this Section 2.42 shall be construed to establish a period of
23 limitation with respect to any other obligation which the Contractor might have
24 under the Contract Documents, including Section 2.32 hereof. The establishment
25 of the time periods noted in this Section 2.42, or such longer period of time as
26 may be prescribed by law or by the terms of any warranty required by the Contract
27 Documents, relates only to the specific obligation of the Contractor to correct the
28 defective or nonconforming Work, and has no relationship to the time within which
29 the Contractor's obligation to comply with the Contract Documents may be sought
30 to be enforced, nor to the time within which proceedings may be commenced to
31 establish the Contractor's liability with respect to the Contractor's obligations other
32 than specifically to correct the defective or nonconforming Work.
33
34

35 2.43 ACCEPTANCE OF DEFECTIVE OR NONCONFORMING WORK

36
37 If the Owner prefers to accept defective or nonconforming Work, the Owner may do so
38 instead of requiring its removal and correction, in which case a Supplemental Work Order
39 will be issued to reflect a reduction in the Work Order Price where appropriate and
40 equitable. Such adjustment shall be effected whether or not final payment has been
41 made. Project Manager shall determine the amount of reduction in the Work Order Price.
42

43 2.44 TERMINATION BY THE OWNER

44
45 A. If the Contractor is adjudged bankrupt, or makes a general assignment for the
46 benefit of creditors, or if a receiver is appointed on account of the Contractor's
47 insolvency, or stop notices are served upon the Owner, or if the Contractor
48 persistently or repeatedly refuses or fails, except in cases for which extension of
49 time is provided, to supply enough properly skilled workers or proper materials, or
50 fails to make prompt payment to Subcontractors or for materials or labor, or
51

1 persistently disregards applicable laws, ordinances, rules, regulations or orders
2 of any public authority having jurisdiction, or otherwise is guilty of a substantial
3 violation of a provision of the Contract Documents, and fails after written notice to
4 commence and continue correction of such default, neglect or violation with
5 diligence and promptness, the Owner upon certification by the Project Manager
6 that sufficient cause exists to justify such action, may, after an additional written
7 notice and without prejudice to any other remedy the Owner may have, terminate
8 the Contract and take possession of all materials, equipment, tools, construction
9 equipment and machinery thereon owned by the Contractor and may finish the
10 Work by whatever methods the Owner may deem expedient. In such case the
11 Contractor shall not be entitled to receive any further payment until the Work is
12 finished.

13
14 B. If the unpaid balance of the Work Order Price exceeds the costs of finishing the
15 Work, including compensation for the Project Manager's and Architect's additional
16 services made necessary thereby, Contractor will only be paid for his/her actual
17 unpaid costs from such excess. If such costs exceed the unpaid balance, the
18 contractor shall pay the difference to the Owner. The amount to be paid to the
19 Contractor or to the Owner, as the case may be, shall be certified by the Project
20 Manager, upon application, in the manner provided in Section 2.24 and this
21 obligation for payment shall survive the termination of the Contract.
22

23
24 2.45 SUBSTITUTION OF MATERIALS

25
26 A. When a specific manufacturer, trade name or material is specified, or indicated, it
27 is to establish a standard of quality and shall not be construed as limiting
28 competition. The intent of the Contract Documents is to specify high-grade
29 standard material and equipment, and it is not the intent of these Contract
30 Documents to exclude or omit the products of any responsible manufacturer, if
31 such products are equally acceptable in terms of quality, finish, performance,
32 durability, and serviceability, in the judgment of the Owner and the Architect, to
33 those specified herein. Wherever an article, or any class of materials, is specified
34 by the trade name or by the name of any particular patentee, manufacturer or
35 dealer, it shall be taken as intending to mean and specify the article of material
36 described or any other equal thereto in quality, finish, performance, durability, and
37 serviceability, in the judgment of the Owner and the Architect, for the purpose for
38 which it is or they are intended.
39

40 B. If the Contractor desires to use material or equipment other than that specified,
41 he/she shall submit a request for approval of such substitution, in writing, to the
42 Project Manager by no later than 10 days prior to bid opening. Substitution
43 requests will not be considered if received after the time stipulated.
44

45 C. The Owner does not guarantee that alternative articles, components, materials or
46 equipment other than the item specified by trade name or other specific
47 identification, will fit within the design parameters of the project without alteration
48 of the project design by the Contractor.
49

50 D. The Owner has the right to reject any proposed alternative material which requires
51 alteration of the project design which impacts the safety of the public or the user

1 of a completed facility. If the proposed alternative material requires alteration of
2 the design of the Project or any aspect thereof and said alterations are acceptable
3 to the Owner, the Contractor shall be responsible for performing said alterations
4 at no additional cost to the Owner.

5
6 E. Submittals for approval of substitute materials shall contain sufficient detailed
7 information, descriptive brochures, drawings, samples or other data as is
8 necessary to provide a detailed side-by-side comparison to the specified
9 materials. It is the sole responsibility of the Contractor to submit complete
10 descriptive and technical information so the Project Manager can make proper
11 appraisal. Lack of either proper or sufficient information shall constitute cause for
12 rejection. Reference to product data will not be acceptable.

13
14 F. It is the Contractor's responsibility to confirm and correlate all quantities and
15 dimensions and coordinate with all trades whose work may be affected by the
16 requested substitution.

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19 2.46 REFERENCE TO STANDARDS

20
21 A. Reference to known standards shall mean and intend the latest edition or
22 amendment published prior to date of these Specifications, unless specifically
23 indicated otherwise, and to such portions of it that relate and apply directly to the
24 material or installation called for on the Project.

25
26 B. Where material is specified solely by reference to standard specifications, the
27 Contractor shall, if requested by the Project Manager, submit to the Project
28 Manager for his/her approval, data on all such material proposed to be
29 incorporated into the Work of the Contractor, listing the name and address of the
30 vendor, the manufacturer or producer, and the trade or brand names of such
31 materials.

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34 2.47 SPECIFICATIONS

35
36 A. The Specifications are organized into Divisions, Sections, and Trade headings
37 based on the Construction Specifications Institute's Master format and the Master
38 format numbering system. This organization shall not control the Contractor in
39 dividing the Work among Subcontractors or in establishing the extent of the Work
40 to be performed by any trade. The Contractor shall be responsible for examining
41 all Sections of the Specifications for inter-related items of the Work, and for
42 furnishing each item identified or specified.

43
44 B. No responsibility will be assumed by the Owner, Architect or the Project Manager
45 for omissions or duplications by the Contractor in the completion of the Contract
46 due to any alleged discrepancy in the arrangement of the material in these
47 Specifications, nor shall any such segregation of work and materials operate to
48 make the Project Manager an arbiter in defining the limits to the agreements
49 between the Contractor and his/her Subcontractors or suppliers.

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- C. The misplacement, addition or omission of any letter, word or punctuation mark shall in no way damage the true spirit, intent or meaning of these Specifications.
- D. The words "shown", "indicated", "noted", "scheduled" or words of that effect shall be understood to mean that reference is made to Drawings accompanying these Specifications.
- E. Where reference herein is made to colors or finishes "as selected", the reference is to the Architect with concurrence by the Owner.

2.48 APPROVED APPLICATORS

- A. Where specific instructions in these Specifications require that a particular product and/or materials be installed and/or applied by an "approved applicator" of the manufacturer, it shall be the Contractor's responsibility to insure that any Subcontractors used for such work be approved applicators.
- B. Contractor accordingly shall bear any and all costs, and shall reimburse Owner for any such costs incurred by Owner, resulting from Contractor's failure to insure the use of an "approved applicator".

2.49 DELIVERY AND STORAGE OF MATERIALS

- A. Deliver all manufactured materials in the original packages, containers or bundles (with the seals intact), bearing the name or identification mark of all manufacturers.
- B. Deliver fabrications in as large assemblies as practicable and where specified to be shop-primed or shop-finished; they shall be packaged or crated as required to preserve such priming or finish intact and free from abrasion.
- C. Store all materials in such manner as necessary to properly protect same from damage, as materials or equipment damaged by handling, weather, dirt or from any other cause will not be acceptable.
- D. Store materials so as to cause no obstructions (i.e. stored off all sidewalks and other walkways, roadways, and underground services). The Contractor shall be responsible for protecting from damage all material and equipment furnished under the Contract.

2.50 QUALITY OF WORK

- A. Where not more specifically described in any of the various Sections of these Specifications, the quality of work shall conform to all of the methods and operations of best standards and accepted practices of the trade or trades involved, and shall include all items of fabrication, construction, or installation regularly furnished or required for completion of the work (including any finish),

1 and for successful operation as intended of the project and the component thereof
2 corresponding to that work.

- 3
4 B. All Work shall be executed by mechanics skilled in their respective lines of work.
5
6 C. When completed, all parts shall have been durably and substantially built and
7 shall present a neat, finished appearance.
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10 2.51 HOURS OF WORK

- 11
12 A. Eight (8) hours of labor shall constitute a legal day's work upon all work done
13 hereunder, and it is expressly stipulated that no worker employed at any time by
14 the Contractor, or by a Subcontractor under this Contract, upon the Work, shall
15 be required or permitted to work thereon more than eight (8) hours in any one (1)
16 calendar day and forty (40) hours in any one (1) calendar week, except as
17 provided in Sections 1810-1815 inclusive, of the Labor Code of the State of
18 California, all the provisions of which are deemed to be incorporated herein as if
19 set forth in full; and it is further expressly stipulated that for each and every
20 violation of said last named stipulation, said Contractor shall forfeit, as a penalty
21 to the Owner, fifty dollars (\$50.00) for each worker employed by the Contractor in
22 the execution of this Contract, for each calendar day during which said worker is
23 required or permitted to labor more than eight (8) hours in any one (1) calendar
24 day and forty (40) hours in any one (1) calendar week in violation of any of said
25 provisions of the Labor Code.
26
27 B. Notwithstanding the above stipulations, pursuant to Section 1815 of the Labor
28 Code, work performed by employees of contractors in excess of eight (8) hours
29 per day and forty (40) hours during any one (1) week shall be permitted on the
30 Project upon compensation for all hours worked in excess of eight (8) hours per
31 day at not less than one and a half (1 1/2) times the basic rate of pay.
32
33

34 2.52 WAGE RATES

- 35
36 A. All projects under this Contract shall be subject to compliance monitoring and
37 enforcement by the Department of Industrial Relations (DIR), including the
38 obligation to submit certified payroll records directly to the DIR Compliance
39 Monitoring Unit (CMU) at least monthly using the CMU's eCPR system. Detailed
40 information may be obtained on the State of California's Department of Industrial
41 Relations website, www.dir.ca.gov/dlse/cmu/CMU.
42
43 The Contractor shall also submit certified payroll records of the Contractor,
44 Subcontractors and all Sub-subcontractors of any tier to the Project Manager at
45 least monthly.
46
47 B. Contractor shall, and shall cause each of its Subcontractors (as defined in Labor
48 Code section 1722.1) to provide written proof that they are currently registered
49 with the California Department of Industrial Relations at the time of bid submittal,
50 and have paid the applicable annual fee and are thereby qualified to submit a bid
51 and to perform public work pursuant to Labor Code section 1725.5, prior to award

1 of this Contract or any subcontract hereunder. No bid shall be accepted, nor shall
2 this Contract or any subcontract hereunder, be entered into without such proof.
3

4 C. Pursuant to Section 1770-1780 of the Labor Code of the State of California, the
5 Director of the Department of Industrial Relations has determined the general
6 prevailing rates of wages and rates for legal holidays and overtime in the locality
7 in which this work is to be performed, which under Labor Code Section 1773.1
8 are deemed to include employer payments for health and welfare, pension,
9 vacation, travel time and subsistence pay, and apprenticeship or other authorized
10 training programs, for each craft or type of worker or mechanic needed to perform
11 this contract. Said wage rates are available only at the Fresno County Department
12 of Public Works and Planning, Design Division, and will be made available to any
13 interested person upon request. Minimum wage rates for this Project, as
14 predetermined by the Secretary of Labor, are set forth in the Special Provisions.
15 If there is a difference between the minimum wage rates predetermined by the
16 Secretary of Labor and the Prevailing Wage Rates predetermined by the Director
17 of the Department of Industrial Relations of the State of California for similar
18 classifications of labor, the contractor and his subcontractors shall pay not less
19 than the higher wage rate.
20

21 D. It shall be mandatory upon the Contractor to whom the Contract is awarded, and
22 upon any Subcontractor under him/her to pay not less than the said specified rates
23 to all laborers, workers, and mechanics employed by them in the execution of the
24 Contract, and to pay all laborers, workers and mechanics not less often than once
25 weekly. The Contractor to whom the Contract is awarded shall post a copy of the
26 determination of prevailing wages at the job site. The Contractor shall require all
27 Subcontractors to comply with Sections 1770-1780 of the Labor Code of the State
28 of California and shall insert into every subcontract the requirements contained
29 therein.
30

31 E. The Contractor shall comply with Labor Code Section 1775. In accordance with
32 said Section 1775, it is hereby further agreed that the Contractor shall forfeit to
33 the Owner, as a penalty, fifty dollars (\$50.00) for each laborer, worker, or
34 mechanic employed for each calendar day or portion thereof, who is paid less
35 than the said stipulated rates for any work done under the Contract, by him/her or
36 by any Subcontractor under him/her. The difference between said stipulated rates
37 and the amount paid to each worker for each calendar day or portion thereof for
38 which each worker was paid less than said stipulated rate shall be paid to each
39 worker by the Contractor. The Contractor, and each Subcontractor, shall keep or
40 cause to be kept an accurate record showing the name, address, social security
41 number, work classification, straight time and overtime hours worked each day
42 and week, and the actual per diem wages paid to each journeyman, apprentice,
43 worker or other employee employed by him/her or her in connection with the public
44 work. The records shall be open at all reasonable hours to the inspection of the
45 Owner, to its officers and agents, and to the Division of Labor Law Enforcement
46 of the State Department of Industrial Relations, its deputies and agents, or as
47 otherwise provided by applicable law (including but not limited to Labor Code
48 1776).
49

50 F. In case it becomes necessary for the Contractor or any Subcontractor to employ
51 on the Work under this Contract any person in a trade or occupation (except

1 executive, supervisory, administrative, clerical or other non-manual workers as
2 such) for which no minimum wage rate is specified, the Contractor shall
3 immediately notify the Owner who shall promptly thereafter determine the
4 prevailing rate for such additional trade or occupation from the time of the initial
5 employment of the person affected and during the continuance of such
6 employment.

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9 2.53 APPLICATION OF HIGHEST STANDARDS AND REQUIREMENTS

10
11 Whenever two (2) or more standards or requirements appear in these General Conditions
12 or in any other part of the Contract Documents that form the Contract, the highest
13 standard or requirement shall be applied and followed in the performance under this
14 Contract.

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16
17 2.54 NONDISCRIMINATION IN EMPLOYMENT

18
19 Contractor shall comply with all Federal and State Laws prohibiting discrimination in
20 employment, including the following:

- 21
22 A. California Fair Labor Code Section 1735, which prohibits discrimination in
23 employment on any basis listed in subdivision (a) of Section 12940 of the
24 Government Code, as those bases are defined in Sections 12926 and 12926.1 of
25 the Government Code, except as otherwise provided in Section 12940 of the
26 Government Code, and applies to all employers, employment agencies and labor
27 organizations.
28
29 B. Title VII of the Federal 1964 Civil Rights Act (42 U.S.C. Section
30 2000e - 2000e - 17) which prohibits employment discrimination on the basis of
31 race, color, sex, religion, or national origin, and applies to all employers that
32 employ at least fifteen (15) workers during each working day in each of twenty
33 (20) or more calendar weeks in the current or preceding year.
34
35 C. In addition to these two (2) laws of general application listed in the immediately
36 preceding paragraphs A and B, there are other Federal and State laws that
37 prohibit employment discrimination in particular cases.
38
39 D. The Owner is an Affirmative Action Employer and expects all of its contractors
40 and suppliers to familiarize themselves with, and comply with, all applicable laws
41 relating to employment discrimination.
42
43 E. To the extent required by law, the Contractor shall meet all requirements of law
44 relating to the participation of minority, women, and disabled veteran business
45 enterprise contracting goals, and shall comply with Public Contract Code 10115
46 et seq. and all applicable regulations. Contractor further agrees that, when
47 required, Contractor shall ensure compliance by all Subcontractors and shall
48 complete all forms required by all agencies exercising jurisdiction over the project.
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51 2.55 APPRENTICES

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- A. Pursuant to Sections 1770-1780 of the Labor Code of the State of California, the Director of the Department of Industrial Relations has determined the general prevailing rate of wages in the locality for each craft or type of worker needed to execute the work. Said wage rates pursuant to Section 1773.2 of the Labor Code are on file with the Clerk to the Fresno County Board of Supervisors, and will be made available to any interested person on request. A copy of this wage scale may also be obtained at the following Web Site: www.dir.ca.gov/dlsr.
- B. Pursuant to Section 1775 of the Labor Code of the State of California, nothing in this Article shall prevent the employment of properly registered apprentices upon public works. Every such apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade at which he/she is employed, and shall be employed only at the work of the craft or trade to which he/she is registered.
- C. Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards and written apprentice agreements under Chapter 4 (commencing at Section 3070), Division 3, of the Labor Code, are eligible to be employed on public works. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which he/she is training.

2.56 PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted, and this contract shall be read and enforced as though it were included, and if through mistake or otherwise any provision is not inserted or is not correctly inserted, upon application of either party the contract shall be amended to make the insertion or correction.

2.57 DRUG FREE WORKPLACE CERTIFICATION

- A. The Contractor shall comply with Government Code Section 8355 in matters relating to providing a drug-free workplace.
- B. The Contractor shall publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
- C. The Contractor shall establish a Drug-Free Awareness Program as required by Government Code 8355(a)(2), to inform employees about all of the following:
 - 1. The dangers of drug abuse in the workplace,
 - 2. The Contractor's policy for maintaining a drug-free workplace,

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- 3. Any available counseling, rehabilitation and employee assistance programs,
 - 4. Penalties that may be imposed upon employees for drug abuse violations.
- D. Provide as required by Government Code 8355(c), that everyone who provides work under the Agreement.
- 1. Will receive a copy of the company's drug-free policy statement, and
 - 2. Will agree to abide by the terms of the Contractor's statement as a condition of employment on the contract.

2.58 BUILDING PERMIT AND OTHER PERMITS

The Building permit shall be obtained and paid for by the Owner. All other required permits are the responsibility of the Contractor to obtain. Fees for all other required permits shall be reimbursed to the Contractor at actual cost when the County is presented with a valid receipt.

2.59 CODES AND REGULATIONS

All work, materials and equipment shall be in full compliance with the California Building Code; California Plumbing Code; California Electrical Code; California Mechanical Code; California Fire Code; California Energy Code; as those codes may be amended from time to time; Cal/OSHA Safety Regulations; all Federal, State and Local laws, ordinances, regulations and Fresno County Charter provisions in effect and applicable in the performance of the work.

2.60 JOB ORDER CONTRACTING SOFTWARE AND LICENSE

A. Job Order Contracting Software:

The County of Fresno (County) selected The Gordian Group's (Gordian) Job Order Contracting (JOC) system for the execution of the JOC program. The Gordian JOC system includes Gordian's proprietary eGordian® and Gordian Cloud JOC Applications and Construction Task Catalog®, which shall be used by the Contractor to prepare and submit Job Order Proposals, subcontractor lists, and other requirements specified in the general conditions and as may be requested by the County. The Contractor shall be required to execute Gordian's JOC System License and User Agreement, and shall pay a 1% JOC System License Fee on all work awarded to the JOC contractor by the County for access to the Gordian JOC System.

END OF SECTION

Federal Requirements

FEMA CONTRACT PROVISIONS

The Contract may be funded in part by the federal grant funding received by the COUNTY from the Federal Emergency Management Agency ("FEMA"), which is part of the United States Department of Homeland Security ("DHS"). Therefore, CONTRACTOR must comply with all federal laws and regulations applicable to the receipt of FEMA grants, including, but not limited to, the contractual provision set forth in Title 2 of the Code of Federal Regulations, Part 200, in connection with the CONTRACTOR's performance of the work or services covered by the Contract (the "Project"). All such federal laws and regulations shall be deemed to be inserted in the Contract and the Contract shall be read and enforced as though such federal laws and regulations were included therein. In addition, the CONTRACTOR agrees to the following specific provisions:

Equal Employment Opportunity

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.

FEMA CONTRACT PROVISIONS

(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.

Copeland Anti-Kickback Act

(1) The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract. Each

FEMA CONTRACT PROVISIONS

contractor or subrecipient is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

(2) The contractor or subcontractor shall insert in any subcontracts the above clause in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

(3) A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor or subcontractor as provided in 29 CFR 5.12.

Contract Work Hours and Safety Standards Act

(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.

(2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (b)(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 (b)(1) of this section, in the sum of \$27 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 (b)(1) of this section.

(3) *Withholding for unpaid wages and liquidated damages.* The **County of Fresno** 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 (b)(2) of this section.

(4) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(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 (b)(1) through (4) of this section.

Clean Air Act and the Federal Water Pollution Control Act

(1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq., and the

FEMA CONTRACT PROVISIONS

Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(2) The contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Suspension and Debarment

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by the County. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Byrd Anti-Lobbying Amendment

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

Procurement of Recovered Materials

(1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:

- i. Competitively within a timeframe providing for compliance with the contract performance schedule;
- ii. Meeting contract performance requirements; or

FEMA CONTRACT PROVISIONS

iii. At a reasonable price.

(2) Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

(3) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

Access to Records

(1) The Contractor agrees to provide the County of Fresno, the California Office of Emergency Services, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

(4) In compliance with the Disaster Recovery Act of 2018, the County of Fresno and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

Department of Homeland Security (DHS) Seal, Logo, and Flags

The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

Compliance with Federal Law, Regulations, and Executive Orders

This is an acknowledgement that FEMA financial assistance may be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

No Obligation by Federal Government

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

Program Fraud and False or Fraudulent Statements or Related Acts

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

FEDERAL REQUIREMENTS FOR FEDERAL-AID CONSTRUCTION PROJECTS

General

The work will be financed in whole or in part with Federal funds, and therefore all of the Federal statutes, rules, regulations, and provisions applicable to work financed in whole or in part with Federal funds will apply.

In addition to the provisions in the Agreement, the Contractor shall comply with the following:

Performance Of Previous Contracts

The bidder shall execute the "Certification with Regard to the Performance of Previous Contracts or Subcontracts Subject to the Equal Opportunity Clause and the Filing of Required Reports" located in the proposal. No request for subletting or assigning any portion of the contract in excess of \$10,000 will be considered under the provisions of Section VII of the required contract provisions unless such request is accompanied by the Certification referred to above, executed by the proposed subcontractor.

Non-Collusion Provision

The provisions in this section are applicable to all contracts except contracts for Federal Aid Secondary projects. Title 23, United States Code, Section 112, requires as a condition precedent to approval by the Federal Highway Administrator of the contract for this work that each bidder file a sworn statement executed by, or on behalf of, the person, firm, association, or corporation to whom such contract is to be awarded, certifying that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the submitted bid. A form to make the non-collusion affidavit statement required by Section 112 as a certification under penalty of perjury rather than as a sworn statement as permitted by 28, USC, Sec. 1746, is included in the proposal.

Executive Order N-6-22

Under Executive Order N-6-22 as a contractor, subcontractor, or grantee, compliance with the economic sanctions imposed in response to Russia's actions in Ukraine is required, including with respect to, but not limited to, the federal executive orders identified in the EO and the sanctions identified on the U.S. Department of the Treasury website (<https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions>). Failure to comply may result in the termination of contracts or grants, as applicable.

Specially Designated Nationals and Blocked Persons List (SDN)

<https://home.treasury.gov/policy-issues/financial-sanctions/specially-designated-nationals-and-blocked-persons-list-sdn-human-readable-lists>

Disadvantaged Business Enterprise Running Tally of Attainments

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 to business.support.unit@dot.ca.gov with a copy to the Agency.

<https://sam.gov>, under CA20230018

SELF-DEALING TRANSACTION DISCLOSURE FORM

(1) Company Board Member Information:

Name: _____ Date: _____

Job Title: _____

(2) Company/Agency Name and Address:

(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to)

(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code 5233 (a)

(5) Authorized Signature

Signature: _____ Date: _____

SELF-DEALING TRANSACTION DISCLOSURE FORM INSTRUCTIONS

In order to conduct business with the County of Fresno (hereinafter referred to as "County"), members of a contractor's board of directors (hereinafter referred to as "County Contractor"), must disclose any self-dealing transactions that they are a party to while providing goods, performing services, or both for the County. A self-dealing transaction is defined below:

"A self-dealing transaction means a transaction to which the corporation is a party and which one or more of its directors has a material financial interest"

The definition above will be utilized for purposes of completing the disclosure form.

- (1) Enter board member's name, job title (if applicable), and date this disclosure is being made.
- (2) Enter the board member's company/agency name and address.
- (3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the County. At a minimum, include a description of the following:
 - a. The name of the agency/company with which the corporation has the transaction; and
 - b. The nature of the material financial interest in the Corporation's transaction that the board member has.
- (4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of the Corporations Codes.
- (5) Form must be signed by the board member that is involved in the self-dealing transaction described in Sections (3) and (4).