

SPECIFICATIONS

GENERAL ENGINEERING JOB ORDER CONTRACT

A MANDATORY pre-bid conference will be held at 1:00 p.m., on November 29, 2023 for the purpose of discussing the Job Order Contract concept, documents, bid considerations and to discuss Job Order Contracting from a contractor's viewpoint. The meeting will be held online (the link for which will be posted at <http://www.co.fresno.ca.us/planholders>).

BUDGET / ACCOUNT: 4510 / 7370



Department of Public Works and Planning

CONTRACT NUMBER 23-19-J 23-20-J 23-21-J 23-22-J

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PROJECT: GENERAL ENGINEERING JOB ORDER CONTRACT
CONTRACT NUMBER: 23-19-J 23-20-J 23-21-J 23-22-J

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

Paul Nerland, County Administrative Officer

Steven E. White, Director
Department of Public Works and Planning



Steve White (Nov 29, 2023 16:41 PST)

Date Signed: Nov 29, 2023



Design Engineer: 

Mohammad Alimi PE C67156

FRESNO COUNTY
Department of Public Works and Planning
m/a 2220 Tulare Street, Suite 720
Fresno, CA 93721-2106

NOTICE TO BIDDERS

Sealed proposals will be received at:

<https://www.bidexpress.com/businesses/36473/home>

and at the Fresno County Department of Public Works and Planning (Department), Office of the Design Engineer, Seventh Floor, Fresno County Plaza Building, 2220 Tulare Street, Fresno, CA 93721 until

**2:00 P.M., (1400 hours and 00 seconds)
Thursday, December 14, 2023**

If you have any questions about bid submission, please contact us at DesignServices@fresnocountyca.gov or calling (559) 600-4241 or (559) 600-4543.

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

GENERAL ENGINEERING JOB ORDER CONTRACT

CONTRACT NUMBERS 23-19-J 23-20-J 23-21-J 23-22-J

A Job Order Contract is an indefinite quantity contract pursuant to which the Contractor will perform an ongoing series of individual projects at different locations throughout the County of Fresno. The types of work to be done may include, but is not limited to: concrete repair, culvert repair, guardrail replacement, bridge removal, bridge wing wall repair, irrigation pipe replacement, repair of failed roadway sections, repair of asphalt dike, and minor parking lot repairs. Work being contemplated under the Job Order Contract may include potentially Federally-funded work associated with a declared disaster over which the Federal Emergency Management Agency would have oversight. The bid documents include a Construction Task Catalog® containing construction tasks with preset Unit Prices. All Unit Prices are based on local labor prevailing wages, material and equipment prices and are for the direct cost of construction.

The County of Fresno affirms that in any contract entered into pursuant to the advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation. Bidders are advised that, as required by federal law, efforts should be made to engage Disadvantaged Business Enterprise (DBE) firms for any contracting or subcontracting opportunities, under this contract.

A MANDATORY pre-bid conference will be held at 1:00 p.m., on Wednesday, November 29, 2023, for the purpose of discussing the Job Order Contract concept, documents, bid considerations and to discuss Job Order Contracting from a contractor's viewpoint. The MANDATORY pre-bid conference will be held online (the link for which will be posted at <http://www.fresnocountyca.gov/planholders>).

Prospective bidders whose representative(s) attend the MANDATORY pre-bid conference will receive the electronic link to the official specifications, the Construction Task Catalog® and the Technical Specifications.

The County reserves the right, in its sole discretion, to schedule a second pre-bid conference via the issuance of an addendum to this contract. In such case, attendance at only one of the pre-bid conferences will be mandatory.

Bidders will submit one bid that will be considered for four (4) potential Contracts being offered. Bidders will bid two sets of Adjustment Factors to be applied to the Unit Prices. One set of Adjustment Factors will be for projects located at lower elevations, and one set of Adjustment Factors for projects at elevations above 3000 feet. Each set of Adjustment Factors will include one Adjustment Factor for performing work during Normal Working Hours and a second Adjustment Factor for performing work during Other Than Normal Working Hours. All Adjustment Factors apply to every task in the Construction Task Catalog®.

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

If the Job Order Proposal is found to be complete and reasonable, a Notice to Proceed with the Job Order may be issued. The Contractor is required to complete each Detailed Scope of Work for the Job Order Price within the Job Order Completion Time.

A Job Order will reference the Detailed Scope of Work and set forth the Job Order Completion Time, and the Job Order Price. The Job Order Price is determined by multiplying the preset Unit Prices by the appropriate quantities and by the appropriate Adjustment Factor. The Job Order Price shall be lump sum, fixed price for the completion of the Detailed Scope of Work. A separate Job Order will be issued for each project. Extra work, credits, and deletions will be contained in a Supplemental Work Order.

Minimum and Maximum Contract Values:

- A. There is no Minimum Contract Value for this Contract. If a contract is awarded, the Contractor is not guaranteed to receive the opportunity to perform a specified minimum amount of work during the Contract Term.
- B. The Maximum Contract Value is \$5,797,725. The Contractor is not guaranteed to receive this volume of Job Orders. It is merely an estimate. The Owner has no obligation to issue Job Orders in excess of the Minimum Contract Value. The awarded Contractors will be required to obtain payment and performance bonds for the Maximum Contract Value.
- C. The successful bidder shall furnish a payment bond and a performance bond in the amount of \$1,000,000 each as a security for the payment of all persons performing and furnishing materials in connection with this Contract. If the aggregate outstanding Job Orders issued under the contract exceed \$1,000,000, increases in the Payment and Performance Bonds in increments of \$500,000 will be required such that the amount of the Payment and Performance Bonds are not less than one hundred percent (100%) of the outstanding aggregate Job Orders issued. Bonds shall remain in force for the duration and until completion of any outstanding Job Order. At no time may the sum of outstanding Job Orders exceed the amount of the Payment and Performance Bonds.

Contract Term:

- A. The Contract Term commences on the date the contract is executed by the County of Fresno Board of Supervisors (i.e.: the effective date of the Contract).
- B. The term of the Job Order Contract will be either for one year or when issued Job Orders totaling the Maximum Contract Value have been completed, whichever occurs first. All Job Orders must

be issued but not necessarily completed within one calendar year of the effective date of the Contract. All Job Orders for which a Notice to Proceed is issued by the County Contract Manager during the term of this Contract shall be valid and in effect notwithstanding that the Detailed Scope of Work may be performed, payments may be made, and the guarantee period may continue, after the Contract Term has expired. All terms and conditions of the Contract apply to each Job Order. No notices to proceed will be issued after 5:00, P.M. on the final day of the Contract Term.

Bidders may fill out a Request to be Added to Planholders List:

<https://www.fresnocountyca.gov/Departments/Public-Works-and-Planning/Construction-Bidding-Opportunities/Request-to-Be-Added-to-the-Planholders-List-Form>

Requesters will then be listed as a planholder for the project on the website and receive notifications and addenda issued for the project.

Prospective bidders may also select the project on www.BidExpress.com. Those that demonstrate interest in the project will be added to the planholders list, and receive notifications and addenda issued for the project.

Planholder and exchange/publication names may be obtained from the Fresno County website at <https://www.fresnocountyca.gov/planholders>. Electronic copies in “.pdf” file format of the official project plans and specifications and such additional supplemental project information as may be provided at the mandatory pre-bid conference.

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

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

A Summary of Bids will be posted at the above listed website, generally within 24 hours of the Bid Opening.

All questions regarding this project shall be in writing and shall be received by the Department of Public Works and Planning, Design Division, no later than 2:00 P.M. on the seventh (7th) calendar day before bid opening. Any questions received after this deadline will not receive a response unless the Department of Public Works and Planning elects to issue an addendum to revise the bid opening date. In the event that the bid opening date is revised, the deadline for questions will be extended to no later than 2:00 P.M. on the seventh (7th) calendar day before the revised bid opening date. Questions shall be submitted on the “Contractor Request For Clarification” form provided on the project website at:

<https://www.fresnocountyca.gov/Departments/Public-Works-and-Planning/Construction-Bidding-Opportunities/23-19-J-23-20-J-23-21-J-23-22-J-Class-A-General-Engineering-Job-Order-Contract/Request-for-Clarification-Form>

Any changes to, or clarification of, the project plans and specifications shall be in the form of a written addendum issued to planholders of record. Questions that prompt a change or clarification shall be included in the addendum with the subsequent answer.

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

The County intends to award a contract to each of the four (4) lowest responsible bidders. One proposal must be submitted by each bidder wishing to bid for one of the four contracts in the Class A license category. Bids will be compared, for purposes of identifying the apparent low bidder for proposed award of the contract, on the basis of the Award Criteria Figure. The Award Criteria Figure is the sum of the weighted Adjustment Factors.

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

The Owner selected The Gordian Group's (Gordian) Job Order Contracting (JOC) Solution for their JOC program. The Gordian JOC Solution™ includes Gordian's proprietary JOC Information Management System ("JOC IMS"), construction cost data, and Construction Task Catalog® which shall be used by the Contractor solely for the purpose of fulfilling its obligations under this Contract, including the preparation and submission of Job Order Proposals, Price Proposals, subcontractor lists, and other requirements specified by the Owner. The Contractor shall be required to execute Gordian's General Terms of Use and pay a 1% JOC System License Fee to obtain access to the Gordian JOC Solution™. The JOC System License Fee applies to all Job Orders issued to the Contractor under the terms of this Contract. The Contractor shall include the JOC System License Fee in the Adjustment Factors.

Bid security in the amount of \$25,000 and in the form of a bid bond issued by an admitted surety insurer licensed by the California Department of Insurance, cash, cashier's check or certified check shall accompany the bid. Bid security shall be made in favor of the County of Fresno. You must either attach an electronic bid bond or provide an original bid bond (or other form of bid security authorized by Public Contract Code Section 20129(a)), prior to the bid opening, in accordance with the detailed directions set forth in Section 2-1.33(4) ("Proposal 4 – Bid Security and Signature") of the Instructions to Bidders. Each paper bid bond shall be submitted in a sealed envelope addressed to the Department and labeled with the name of the bidder, the name of the project, the contract number and the statement 'Bid Bond – Do Not Open Until the Time of Bid Opening.'

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

Pursuant to Section 1773 of the Labor Code, the general prevailing wage rates in the county, or counties, in which the work is to be done have been determined by the Director of the California Department of Industrial Relations. These wages are set forth in the General Prevailing Wage Rates for this project, available at County of Fresno, Department of Public Works and Planning, 2220 Tulare Street, Sixth Floor, Fresno CA 93721-2104 and available from the California Department of Industrial Relations' Internet web site at <http://www.dir.ca.gov/DLSR/PWD>. Future effective general prevailing wage rates, which have been predetermined and are on file with the California Department of Industrial Relations are referenced but not printed in the general prevailing wage rates.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].

No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

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

The Federal minimum wage rates for this project as predetermined by the United States Secretary of Labor are set forth in **General Decision Number CA20230018, Dated 11/03/2023**, which is incorporated in these special provisions by this reference as if fully set forth herein and which can be viewed at <https://www.SAM.gov>, under CA20230018. Said Federal wage rates, as well as project plans, special provisions, and bid forms, may also be examined at the County of Fresno office described in the preceding paragraph. Addenda to modify the reference to Federal minimum wage rates to reflect revisions thereto, if necessary, will be issued to planholders of record.

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

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

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

Board of Supervisors, County of Fresno

Paul Nerland, County Administrative Officer

Bernice E. Seidel, Clerk of the Board

Issue Date: November 14, 2024

Special Provisions

DIVISION I GENERAL PROVISIONS

1 GENERAL

1-1.01 GENERAL

Add to the beginning of Section 1:

The work is done in accordance with the 2015 *Standard Specifications*, 2015 *Standard Plans* and the following special provisions.

Where these special provisions indicate to replace, add to, delete, delete from, or otherwise modify a "section," or a portion thereof, the section or portion thereof to which such modification is to be applied is the section or portion thereof with the corresponding numbering in the 2015 *Standard Specifications*.

Except to the extent that they may conflict with these special provisions, revised standard specifications apply if included in the project details section of the book entitled "Specifications."

Revised standard plans apply if listed on the "List of Revised Standard Plans," if any, in these special provisions; or if shown or referenced on the project plans or in the project details section of the book entitled "Specifications."

In case of conflict between the *Standard Specifications* and these special provisions, the special provisions shall take precedence over and be used in lieu of such conflicting portions.

In case of conflict between applicable revised standard specifications and these special provisions, the special provisions shall take precedence over and be used in lieu of such conflicting portions.

The work of this Contract will be set forth in the detailed Scopes of Work referenced in the individual Job Orders. The Contractor is required to complete each Detailed Scope of Work for the Job Order Price within the Job Order Completion Time.

The Contractor shall perform all labor, and furnish all materials, equipment and incidentals required to make each item complete.

The Contractor shall perform work equaling at least 20 percent of the value any individual Job Order with the Contractor's own employees and equipment, owned or rented, with or without operators except as otherwise may be allowed as described hereinafter. The County Contract Manager may, in their sole and absolute discretion, provide a written waiver such requirement for any particular Job Order.

Add to the end of section 1-1.01:

Bid Items and Applicable Sections

Item code	Item description	Applicable section
090010A	SUPPLEMENTAL WORK	9
090020A	SUPPLEMENTAL WORK (PAYMENT ADJUSTEMENT FOR PRICE INDEX FLUCTUATIONS)	9
141000	TEMPORARY FENCE (TYPE ESA)	16
146005	TEMPORARY WETLAND PROTECTION MAT (EA)	16
146006	TEMPORARY WETLAND PROTECTION MAT (LS)	16
150100	PUBLIC SAFETY PLAN	60
150190	INJECT CRACK (EPOXY)	60
150200	CLOSE ACCESS, DECK	60
150201	SOFFIT ACCESS EXTENSION	60
150202	CORE AND PRESSURE GROUT DOWEL	60
150203	ABANDON CULVERT (EA)	71
150204	ABANDON CULVERT (LF)	71
150205	ABANDON REINFORCED CONCRETE BOX	71
150208	ABANDON DECK DRAIN	71
150209	ABANDON DRAINAGE FACILITY	71

150221	ABANDON INLET	71
150224	ABANDON MANHOLE	71
150227	ABANDON PIPELINE	71
150230	DESTROY WELL	76
150241	ABANDON SEWER	71
150305	OBLITERATE SURFACING	78
150310	RAPID SETTING CONCRETE (PATCH)	60
150312	REPAIR SPALLED SURFACE AREA	60
150604	REMOVE WOOD FENCE	80
150605	REMOVE FENCE	80
150606	REMOVE FENCE (TYPE BW)	80
150607	REMOVE FENCE (TYPE WM)	80
150608	REMOVE CHAIN LINK FENCE	80
150615	REMOVE ENTRANCE TAPER	71
150620	REMOVE GATE	80
150630	REMOVE MARKER	82
150646	REMOVE PEDESTRIAN BARRICADE	56
150655	REMOVE BARRIER	83
150656	REMOVE CABLE BARRIER	83
150661	REMOVE GUARDRAIL	83
150665	REMOVE SINGLE METAL BEAM BARRIER	83
150667	REMOVE DOUBLE METAL BEAM BARRIER	83
150668	REMOVE FLARED END SECTION	70
150676	REMOVE CABLE RAILING	83
150685	REMOVE IRRIGATION FACILITY	20
150711	REMOVE PAINTED TRAFFIC STRIPE	84
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150755	REMOVE SIGN STRUCTURE WALKWAY (EA)	56
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150816	REMOVE REINFORCED CONCRETE BOX CULVERT (EA)	71
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150818	REMOVE REINFORCED CONCRETE BOX CULVERT (CY)	71
150819	REMOVE REINFORCED CONCRETE BOX CULVERT (LS)	71
150820	REMOVE INLET	71
150821	REMOVE HEADWALL	71
150824	REMOVE SEWER MANHOLE	71
150826	REMOVE MANHOLE	71
150827	REMOVE CATCH BASIN	71
150828	REMOVE JUNCTION BOX	71
150831	REMOVE DRAINAGE JUNCTION STRUCTURE	71
150832	REMOVE RETAINING WALL (CY)	60
150833	REMOVE RETAINING WALL (LF)	60
150834	REMOVE RETAINING WALL (WOOD)	60
150836	REMOVE RETAINING WALL (LS)	60
150837	REMOVE RETAINING WALL (PORTION) (CY)	60
150838	REMOVE RETAINING WALL (PORTION) (LF)	60
150839	REMOVE RETAINING WALL (PORTION) (LS)	60
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150854	REMOVE CONCRETE PAVEMENT (CY)	41
150857	REMOVE ASPHALT CONCRETE SURFACING	60
150859	REMOVE ASPHALT CONCRETE OVERSIDE DRAIN	71
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Add to the 1st table of section 1-1.06:

APCD	air pollution control district
AQMD	air quality management district
CISS	cast-in-steel shell
CSL	crosshole sonic logging
GGL	gamma-gamma logging
METS	Caltrans Material Engineering and Testing Services

Add to section 1-1.06:

Abbreviations in the Bid Items and Applicable Sections are also used in Bid Item List - Proposal 2.

Replace Section 1-1.07 with:

1-1.07 DEFINITIONS

1-1.07A General

Interpret terms as defined in the Contract documents.

1-1.07B Glossary

abandon: Render unserviceable in place.

acts of God: *Acts of God* as defined in Pub Cont Code § 7105.

activity: Task, event, or other project element on a schedule that contributes to completing the project. An activity has a description, start date, finish date, duration, and one or more logic ties.

adjust: Raise or lower a facility to match a new grade line.

Adjustment Factor: A competitively bid adjustment to be applied to the Unit Prices listed in the Construction Task Catalog®.

aerially deposited lead: Lead primarily from vehicle emissions deposited within unpaved areas or formerly unpaved areas.

Authorized Facility Audit List: Caltrans-developed list of facilities. For the Authorized Facility Audit List, go the METS website.

authorized laboratory: Independent testing laboratory (1) not employed or compensated by any subcontractor or subcontractor's affiliate providing other services for the Contract and (2) authorized by the Department.

Authorized Material List: Caltrans-developed list of authorized materials. For the Authorized Material List go to the METS website.

Authorized Material Source List: Caltrans-developed list of authorized source materials. For the Authorized Material Source List go to the METS website.

Award Criteria Figure: The amount determined in the Award Criteria Figure Calculation section of the Bid Form, which is used for the purposes of determining the lowest Bid.

base: Layer of specified material of planned thickness placed immediately below the pavement or surfacing.

basement material: Material in an excavation or embankment under the lowest layer to be placed.

bid item: Work unit for which the Bidder provides a price.

Bid Item List: List of bid items, units of measure, and the associated quantities. The verified Bid Item List is the Bid Item List with verified prices. The Contract Proposal (Proposal 2) of Low Bidder at the Department's website is the verified Bid Item List. After contract award, interpret a reference to the Bid Item List as a reference to the verified Bid Item List.

borrow: Fill acquired from an excavation source outside the described cut area.

1. **local borrow:** Material obtained by widening cuts or excavating from sources outside the planned or authorized cross section on the job site. The location of the local borrow is described or designated by the Engineer.
2. **imported borrow:** Borrow that is not local borrow.

bridge: Structure that:

1. Has a bridge number
2. Carries a (1) utility, (2) railroad, or (3) vehicle, pedestrian, or other traffic over, under, or around obstructions or waterways

building-construction contract: Contract that has *Building Construction* on the cover of the *Notice to Bidders and Special Provisions*.

California Test: Caltrans-developed test for determining work quality. For California Tests, go to the METS website.

Caltrans: State of California Department of Transportation

certificate of compliance: Certificate stating the material complies with the Contract.

Certified Industrial Hygienist: Industrial hygienist certified in comprehensive practice by the American Board of Industrial Hygiene.

change order work: Work described in a Change Order, including extra work and work described in the Contract as change order work.

closure: Closure of a traffic lane or lanes, including shoulder, ramp, or connector lanes, within a single traffic control system.

commercial quality: Quality meeting the best general practices.

commercial source: Established business operating as a material source for the general public.

Construction Task Catalog®: A comprehensive listing of construction related tasks together with a specific unit of measure and a published Unit Price.

Contract: Written and executed contract between the Department and the Contractor.

Contract acceptance: Director's written acceptance of a completed Contract.

Contract time: Number of original working days as adjusted by any time adjustment.

Contractor: Person or business or its legal representative entering into a Contract with the Department for performance of the work.

controlling activity: Construction activity that will extend the scheduled completion date if delayed.

County: The County of Fresno

critical path: Longest continuous chain of activities for the project that has the least amount of total float of all chains. In general, a delay on the critical path extends the scheduled completion date.

critical path method: Network-based planning technique using activity durations and relationships between activities to calculate a schedule for the entire project.

culvert: Structure other than a bridge that provides an opening under a roadway.

data date: Day after the date through which a schedule is current. Everything occurring earlier than the data date is as-built and everything on or after the data date is planned.

day: 24 consecutive hours running from midnight to midnight; calendar day.

1. **business day:** Day on the calendar except a Saturday and a holiday.
2. **working day:** Time measure unit for work progress. A working day is any 24-consecutive-hour period except:
 - 2.1. Saturday and a holiday.
 - 2.2. Day during which you cannot perform work on the controlling activity for at least 50 percent of the scheduled work shift with at least 50 percent of the scheduled labor and equipment due to any of the following:
 - 2.2.1. Adverse weather-related conditions.
 - 2.2.2. Traffic maintenance under the Contract.
 - 2.2.3. Suspension of a controlling activity that you and the Engineer agree benefits both parties.
 - 2.2.4. Unanticipated event not caused by either party, such as:
 - 2.2.4.1. Act of God
 - 2.2.4.2. Act of a public enemy.
 - 2.2.4.3. Epidemic.
 - 2.2.4.4. Fire.
 - 2.2.4.5. Flood.
 - 2.2.4.6. Governor-declared state of emergency.
 - 2.2.4.7. Landslide.
 - 2.2.4.8. Quarantine restriction.
 - 2.2.5. Issue involving a third party, including:
 - 2.2.5.1. Industry or area-wide labor strike.
 - 2.2.5.2. Material shortage.
 - 2.2.5.3. Freight embargo.
 - 2.2.5.4. Jurisdictional requirement of a law enforcement agency.
 - 2.2.5.5. Workforce labor dispute of a utility or nonhighway facility owner resulting in a nonhighway facility rearrangement not described and not solely for the Contractor's convenience. Rearrangement of a nonhighway facility includes installation, relocation, alteration, or removal of the facility.
 - 2.3. Day during a concurrent delay.
3. **original working days:**
 - 3.1. Working days to complete the work shown on the *Notice to Bidders* for a non-cost-plus-time-based bid
 - 3.2. Working days bid to complete the work for a cost-plus-time-based bid

Where working days is specified without the modifier *original* in the context of the number of working days to complete the work, interpret the number as the number of original working days as adjusted by any time adjustment.

deduction: Money permanently taken from a progress payment or the final payment. Deductions are cumulative and are not retentions under Pub Cont Code § 7107.

delay: Event that extends the completion of an activity.

1. **excusable delay:** Delay caused by the Department and not reasonably foreseeable when the work began, such as:
 - 1.1. Change in the work
 - 1.2. Department action that is not part of the Contract
 - 1.3. Presence of an underground utility main not described in the Contract or in a location substantially different from that specified
 - 1.4. Described facility rearrangement not rearranged as described, by the utility owner by the date specified, unless the rearrangement is solely for the Contractor's convenience
 - 1.5. Department's failure to obtain timely access to the right-of-way
 - 1.6. Department's failure to review a submittal or provide notification in the time specified
2. **critical delay:** Excusable delay that extends the scheduled completion date
3. **concurrent delay:** Occurrence of at least 2 of the following events in the same period of time, either partially or entirely:
 - 3.1. Critical delay
 - 3.2. Delay to a controlling activity caused by you
 - 3.3. Non-working day

Department: The Fresno County Board of Supervisors and its authorized representatives.

District Office: County of Fresno Department of Public Works and Planning

detour: Temporary route for traffic around a closed road part. A passageway through a job site is not a detour.

Director: Department's Chairman

disadvantaged business enterprise: Disadvantaged business enterprise as defined in 49 CFR 26.5.

dispose of: Remove from the job site.

divided highway: Highway with separated traveled ways for traffic, generally in opposite directions.

Engineer: The County's Director of Public Works and Planning, acting through their authorized designees.

early completion time: Difference in time between an early scheduled completion date and the work completion date.

environmentally sensitive area: Area within or near construction limits where access is prohibited or limited to protect environmental resources.

estimated cost: Estimated cost of the project as shown on the *Notice to Bidders*.

extra work: Any work, desired or performed, but not included in the original Contract.

federal-aid contract: Contract that has a federal-aid project number on the cover of the *Specifications*.

final pay item: Bid item whose quantity shown on the Bid Item List is the quantity paid.

finished grade: Final surface of the completed facility. If the work under the Contract includes stage construction, the relation between the finished grade and the work under the Contract is shown.

fixed cost: Labor, material, or equipment cost directly incurred by the Contractor as a result of performing or supplying a particular bid item that remains constant regardless of the item's quantity.

float: Difference between the earliest and latest allowable start or finish times for an activity.

1. **Department-owned float:** Time saved on the critical path by actions of the Department. It is the last activity shown on the schedule before the scheduled completion date.

force account work: Work ordered on a construction project without an existing agreement on its cost, and performed with the understanding that the contractor will bill the owner according to the cost of labor, materials, and equipment, plus a certain percentage for overhead and profit.

grading plane: Basement material surface on which the lowest layer of subbase, base, pavement, surfacing, or other specified layer is placed.

highway: Whole right-of-way or area reserved for use in constructing the roadway and its appurtenances.

holiday: Holiday shown in the following table:

Holidays	
Holiday	Date observed
Every Sunday	Every Sunday
New Year's Day	January 1 st
Birthday of Martin Luther King, Jr.	3rd Monday in January
Presidents' Day	3rd Monday in February
Cesar Chavez Day	March 31 st
Memorial Day	Last Monday in May
Independence Day	July 4 th
Labor Day	1st Monday in September
Veterans Day	November 11 th
Thanksgiving Day	4th Thursday in November
Day after Thanksgiving Day	Day after Thanksgiving Day
Christmas Day	December 25 th

If January 1st, March 31st, July 4th, November 11th, or December 25th fall on a Sunday, the Monday following is a holiday. If January 1st, March 31st, July 4th, November 11th, or December 25th fall on a Saturday, the preceding Friday is a holiday.

hours of darkness: Hours of darkness as defined in Veh Code § 280.

idle equipment: Equipment:

1. On the job site at the start of a delay
2. Idled because of the delay
3. Not operated during the delay

informal-bid contract: Contract that has *Informal Bid Authorized by Pub Cont Code § 10122* on the cover of the *Notice to Bidders and Special Provisions*.

Job Order: A written order issued by the County, such as a Purchase Order, requiring the Contractor to complete the Detailed Scope of Work within the Job Order Completion Time for the Job Order Price. A project may consist of one or more Job Orders. 1.8.

Job Order Completion Time: The time within which the Contractor must complete the Detailed Scope of Work.

Job Order Price: The value of the approved Job Order Price Proposal and the lump sum amount the Contractor will be paid for completing a Job Order.

Job Order Price Proposal: A price proposal prepared by the Contractor that includes the Pre-priced Tasks, Non Pre-priced Tasks, quantities and appropriate Adjustment Factors required to complete the Detailed Scope of Work.

Job Order Proposal: A set of documents including at least: (a) Job Order Price Proposal; (b) required drawings or sketches; (c) list of anticipated Subcontractors and Materialmen; (d) Construction schedule; and (e) other requested documents.

job site: Area within the defined boundaries of a project.

Joint Scope Meeting: A site meeting to discuss the work before the Detailed Scope of Work is finalized.

Labor Surcharge and Equipment Rental Rates: Caltrans publication that lists labor surcharge and equipment rental rates.

landscaping: Practice of a landscaping contractor under 16 CA Code of Regs § 832.27.

material: Any product or substance specified for use in the construction of a project.

material shortage:

1. Shortage of raw or produced material that is area-wide and caused by an unusual market condition except if any of the following occurs:
 - 1.1. Shortage relates to a produced, nonstandard material
 - 1.2. Supplier's and the Contractor's priority for filling an order differs
 - 1.3. Event outside the United States for a material produced outside the United States
2. Unavailability of water that delays a controlling activity

material source facility audit: Self-audit and a Caltrans audit evaluating a facility's capability to consistently produce materials that comply with Caltrans standards.

Maximum Contract Value: The maximum/estimated value of Job Orders that the Contractor may receive under this Contract.

median: Portion of a divided highway separating the traveled ways including inside shoulders.

milestone: Event activity that has zero duration and is typically used to represent the start or end of a certain stage of the project.

Minimum Contract Value: The minimum value of Job Orders that the Contractor is guaranteed the opportunity to perform under this Contract.

mobilization: Preparatory work that must be performed or costs incurred before starting work on the various items on the job site (Pub Cont Code § 10104).

modify: Add to or subtract from an appurtenant part.

narrative report: Document submitted with each schedule that discusses topics related to project progress and scheduling.

near critical path: Chain of activities with total float exceeding that of the critical path but having not more than 10 working days of total float.

Non Pre-priced Task: A task that is not set forth in the Construction Task Catalog®.

Normal Working Hours: Includes the hours from 7:00 a.m. to 5:00 p.m. Monday through Friday, except for County holidays.

Notice to Proceed: A written notice issued by the County directing the Contractor to proceed with construction activities to complete the Job Order.

obliterate: Place an earth cover over or root, plow, pulverize, or scarify.

Office engineer: The Director of Public Works and Planning for the County of Fresno

Other than Normal Working Hours: Includes the hours of 5:01 p.m. to 6:59 a.m. Monday through Friday and all day Saturday, Sunday, and County Holidays.

Owner: Owner is the County of Fresno. Owner and County may be used interchangeably.

pavement: Uppermost layer of material placed on a traveled way or shoulder.

plans: Standard plans, revised standard plans, and project plans.

1. **standard plans:** Drawings standard to Department construction projects. These plans are in a book titled *Standard Plans*.

2. **revised standard plans:** New or revised standard plans. These plans are listed in the *List of Revised Standard Plans* in a book titled *Specifications*.
3. **project plans:** Drawings specific to the project, including authorized shop drawings. These plans also include a section titled *Project Details* of a book titled *Specifications*.

plant establishment period: Number of days shown on the *Notice to Bidders* for plant establishment.

Pre-priced Task: A task described in, and for which a Unit Price is set forth in, the Construction Task Catalog®.

Project: The collective improvements to be constructed by the Contractor pursuant to a Job Order, or a series of related Job Orders.

quality characteristic: Characteristic of a material that is measured to determine conformance with a given requirement.

quality control plan: Contractor's plan to ensure QC.

reconstruct: Remove and disassemble and construct again at an existing or new location.

relocate: Remove and install or place in a new location.

remove: Remove and dispose of.

Request for Proposal: A written request to the Contractor to prepare a Proposal for the Detailed Scope of Work referenced therein.

reset: Remove and install or place laterally at the same station location.

roadbed: Roadway portion extending from the curb line to curb line or the shoulder line to shoulder line. A divided highway has 2 roadbeds.

roadside: Area between the outside shoulder edge and the right-of-way limits.

roadway: Portion of the highway within the outside lines of curbs, sidewalks, slopes, ditches, channels, or waterways. A roadway includes the structures and features necessary for safety, protection of facilities, and drainage.

salvage: Remove, clean, and haul to a specified location.

schedule:

1. **baseline schedule:** Initial schedule showing the original work plan starting on the date of Contract approval. This schedule shows no completed work to date and no negative float or negative lag to any activity.
2. **revised schedule:** Schedule that incorporates a proposed or past change to logic or activity durations.
3. **updated schedule:** Current schedule developed from the accepted baseline and any subsequent accepted updated or revised schedules through regular monthly review to incorporate actual past progress.

scheduled completion date: Planned work completion date shown on the current schedule.

shoulder: Roadway portion contiguous with the traveled way for accommodation of a stopped vehicle, emergency use, and lateral support of base and surface courses.

small tool: Tool or piece of equipment not listed in Labor Surcharge and Equipment Rental Rates that has a replacement value of \$500 or less.

specifications: Standard specifications, revised standard specifications, and special provisions.

1. **standard specifications:** Specifications standard to Department construction projects. These specifications are in a book titled *Standard Specifications*.
2. **revised standard specifications:** New or revised standard specifications. These specifications are in a section titled *Revised Standard Specifications* of a book titled *Specifications*.
3. **special provisions:** Specifications specific to the project. These specifications are in a section titled *Special Provisions* of a book titled *Specifications*.

State: State of California, including its agencies, departments or divisions whose conduct or action is related to the work.

Structure Design: Offices of Structure Design of the Department of Transportation.

subbase: Layer of material between a base and the basement material.

subgrade: Roadbed portion on which pavement, surfacing, base, subbase, or a layer of any other material is placed.

submittal:

1. **action submittal:** Written and graphic information and samples that require the Department's response.
2. **informational submittal:** Written information that does not require the Department's response.

substantial defects: Defects plainly seen as damaged, displaced, or missing parts or improper functioning of materials, parts, equipment, or systems.

substructure: Bridge parts below the bridge seats, pier tops, and haunches for rigid-framed bridges or spring lines for arched bridges; includes abutment backwalls, abutment parapets, and wingwalls.

superstructure: Bridge parts except the substructure.

Supplemental Job Order: A secondary Job Order developed after the initial Job Order has been issued for the purpose of changing, deleting, or adding work to the initial Detailed Scope of Work, or changing the Job Order Completion Time.

supplemental project information: Information relevant to the project, specified as supplemental project information, and made available to bidders.

surfacing: Uppermost layer of material placed on a traveled way or shoulders; pavement.

Technical Specifications: The written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

time impact analysis: Analysis using a CPM schedule developed specifically to demonstrate the effect a proposed or past change or delay has on the current scheduled completion date.

time-scaled network diagram: Graphic depiction of a CPM schedule comprised of activity bars with relationships for each activity represented by arrows. The tail of each arrow connects to the activity bar for the predecessor and points to the successor.

total bid: Sum of the item totals as verified by the Department; original Contract price.

total float: Amount of time that an activity or chain of activities can be delayed before extending the scheduled completion date.

traffic: Pedestrians, bicyclists, ridden or herded animals, vehicles, streetcars, and other conveyances either singularly or together while using any highway for purposes of travel.

traffic lane: Portion of traveled way used for the movement of a single line of vehicles.

traveled way: Portion of the roadway for the movement of vehicles, exclusive of the shoulders, berms, sidewalks, and parking lanes.

tunnel: Tunnel as defined in 8 CA Code of Regs § 8405 et seq.

unauthorized work: Work performed beyond the lines and grades described in the Contract or established by the Engineer or extra work performed without Department authorization.

Unit Price: The price published in the Construction Task Catalog® for a specific construction or construction related work task. Unit Prices for new Pre-priced Tasks can be established during the course of the Contract and added to the Construction Task Catalogs®. Each Unit Price is comprised of labor, equipment, and material costs to accomplish that specific Pre-priced Task.

unsuitable material: Material encountered below the natural ground surface in embankment areas or below the grading plane in excavation areas that the Engineer determines to be in any of the following conditions:

1. Of such unstable nature that it cannot be compacted to the specified density using ordinary methods at optimum moisture content.
2. Too wet to be properly compacted and cannot be dried before incorporating it into the work. Excessive moisture alone is not sufficient cause for determining that the material is unsuitable.
3. Inappropriate for the planned use.

withhold: Money temporarily or permanently taken from a progress payment.

work: Resources and activities required for Contract acceptance, including labor, materials, equipment, and the created product.

work plan: Detailed formulation of a program of action.

work zone: Area of a highway with construction, maintenance, or utility work activities.

1-1.08 DISTRICTS

Replace Section 1.08 with:

Not Used

1-1.09 FREEZE-THAW AREAS

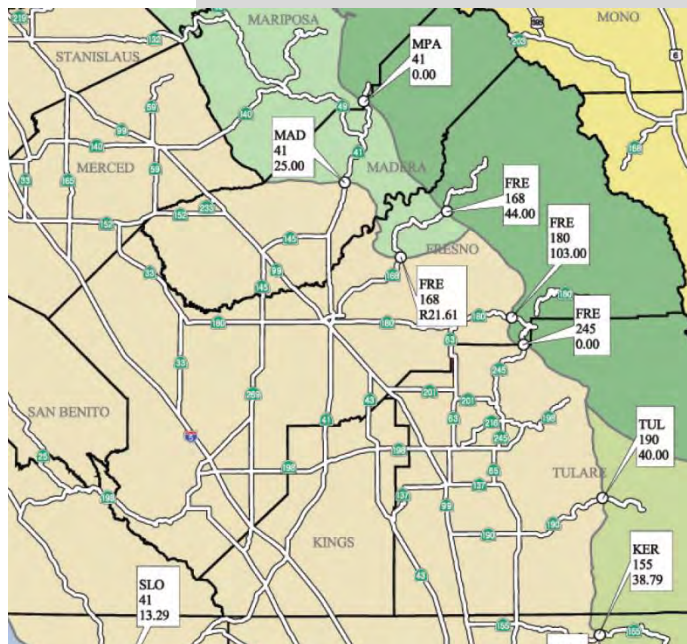
Add to the end of Section 1-1.09

This project may or may not be in a freeze-thaw area.

Replace Section 1-1.10 with:

1-1.10 PAVEMENT CLIMATE REGIONS

http://www.dot.ca.gov/hq/maint/Pavement/Offices/Pavement_Engineering/PDF/Pavement_Climateregions_100505.pdf



Caltrans PAVEMENT CLIMATE REGIONS

October 5, 2005



Note: Markers indicate County/Route/Post Mile of State Hwys. at region boundaries. When there is no marker, the region follows a county boundary.

To help account for the effects of various climatic conditions on pavement performance, the State has been divided into 9 climate regions.

Replace Section 1-1.11 with:

Project: Job Order Contract General Engineering
Contract Numbers: 23-19-J 23-20-J 23-21-J 23-22-J

1-1.11 WEBSITES, ADDRESSES, AND TELEPHONE NUMBERS

Websites, Addresses, and Telephone Numbers

Reference or agency or department unit	Website	Address	Telephone no.
Authorized Material Lists Authorized Material Source Lists	https://dot.ca.gov/programs/engineering-services/authorized-materials-lists	--	--
CA Unified Certification Program's list of certified DBEs	https://dot.ca.gov/programs/civil-rights/dbe-search	--	--
<i>California MUTCD</i>	https://dot.ca.gov/programs/safety-programs/camutcd	--	--
Data Interchange for Materials Engineering	https://dime.dot.ca.gov/	Materials Engineering and Testing Services Department of Transportation 5900 Folsom Blvd Sacramento CA 95819-4612	(916) 227- 5238
Department	http://www.co.fresno.ca.us	2220 Tulare Street Design Division – Seventh Floor Fresno, CA 93721	(559) 600-9908
Department of Conservation, Office of Mine Reclamation	http://www.conservation.ca.gov/dmr/	--	--
Department of General Services, Office of Small Business and DVBE Services	https://www.dgs.ca.gov/OBAS	Office of Small Business and DVBE Services Department of General Services 707 3rd St West Sacramento CA 95605- 2811	(800) 559- 5529 (916) 375- 4940
Department of Industrial Relations	http://www.dir.ca.gov	455 Golden Gate Ave San Francisco CA 94102	--
Design Services - Contract Administration, Planholders, Bid Results	https://www.co.fresno.ca.us/planholders	2220 Tulare Street Design Division – Seventh Floor Fresno, CA 93721	Tel: (559) 600-4241 Fax:(559) 455-4609 Email: DesignServices@fresnocountyca.gov
Division of Accounting, Office of External Accounts Payable	https://dot.ca.gov/programs/accounting	Major Construction Payment and Information Unit Office of External Accounts Payable Division of Accounting Department of Transportation P.O. Box 168043 Sacramento, CA 95816-8043	(916) 227-9013
Division of Construction	http://www.dot.ca.gov/hq/construc/	--	--
Geotechnical Services	https://dot.ca.gov/programs/engineering-services	Geotechnical Services Department of Transportation 5900 Folsom Blvd Sacramento, CA 95819-4612	(916) 227-7000

METS	https://dot.ca.gov/programs/engineering-services	Materials Engineering and Testing Services Department of Transportation 5900 Folsom Blvd Sacramento, CA 95819-4612	(916) 227-7000
MPQP	https://dot.ca.gov/programs/construction/material-plant-quality-program	--	--
Office Engineer	--	Director of Public Works & Planning Fresno County 2220 Tulare St, 8 th Floor Fresno, CA 93721	(559) 600-4078
Offices of Structure Design, Documents Unit	--	MSC 9-4/41 Documents Unit Offices of Structure Design Department of Transportation 1801 30th St Sacramento, CA 95816-7006	(916) 227-0716
Publication Distribution Unit	--	Publication Unit Department of Transportation 1900 Royal Oaks Dr Sacramento, CA 95815-3800	--

Replace Section 1-1.12 with:

1-1.12 MISCELLANY

Make checks and bonds payable to the County of Fresno.

Replace Section 2 with:

2 BIDDING

2-1.01 GENERAL

Section 2 includes specifications related to bid eligibility and the bidding process.

2-1.02 BID INELIGIBILITY

A firm that has provided architectural or engineering services to the Department for this contract before bid submittal for this contract is prohibited from any of the following:

1. Submitting a bid
2. Subcontracting for a part of the work
3. Supplying materials

2-1.03 CONTRACTOR REGISTRATION

No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].

2-1.04–2-1.05 RESERVED

2-1.06 BID DOCUMENTS

2-1.06A General

The *Bid* book includes bid forms and certifications and an electronic copy is available to print, fill out and turn in hard copy or the another version is also available to submit online through Bid Express.

The *Specifications* includes the *Notice to Bidders*, revised standard specifications, project details, and special provisions, technical specifications, and the *Construction Task Catalog*.

The *Specifications* will be made available to contractors who attend the mandatory pre-bid meeting.

The *Standard Specifications* and *Standard Plans* may be purchased at the Publication Distribution Unit.

2-1.06B Supplemental Project Information

No supplemental project information is available for this project.

2-1.06C–2-1.06D Reserved

2-1.07 JOB SITE AND DOCUMENT EXAMINATION

Examine the bid documents. Notify the Department of apparent errors and patent ambiguities in the plans, specifications, and Bid Item List. Failure to do so may result in rejection of a bid or rescission of an award.

Bid submission is your acknowledgment that you have examined the bid documents and are satisfied with:

1. General and local conditions to be encountered
2. Character, quality, and scope of work to be performed
3. Quantities of materials to be furnished
4. Character, quality, and quantity of surface and subsurface materials or obstacles
5. Requirements of the contract

2-1.08 RESERVED

2-1.09 BID ITEM LIST

Submit a bid based on your firm's adjustment factors as detailed in Proposal 2.

2-1.10 SUBCONTRACTOR LIST

Not Used

2-1.11 RESERVED

2-1.12 DISADVANTAGED BUSINESS ENTERPRISES

2-1.12A General

Section 2-1.12 applies to a federal-aid contract.

There is no specified DBE goal associated with this contract.

Contractors shall endeavor to make work available to DBEs and select work parts consistent with the available DBEs, including subcontractors, suppliers, service providers, and truckers.

Include equal employment and non-discrimination assurances in each subcontract you sign with a subcontractor.

2-1.13-32 RESERVED

2-1.33 BID DOCUMENT COMPLETION AND SUBMITTAL

2-1.33A General

Complete forms in the *Bid* book or online through Bid Express.

If submitting your bid hard copy:

1. Under sealed cover
2. Marked as a bid
3. Identifying the contract number and the bid opening date.

Certain bid forms must be submitted with the bid and properly executed.

Certain other forms and information must be submitted either with the bid or within the prescribed period after bid opening as specified elsewhere in these special provisions.

Failure to submit the forms and information as specified results in a nonresponsive bid.

If an agent other than the authorized corporation officer or a partnership member signs the bid, file a Power of Attorney with the Department either before opening bids or with the bid. Otherwise, the bid may be nonresponsive.

2-1.33B Bid Item List and Bid Comparison

Bids will be evaluated and the low bidder determined as indicated in the *Notice to Bidders*.

2-1.33C Bid Document Completion

Proposal sheets are identified by title and by the letter "P" followed by the number assigned to the proposal sheet in question. Proposal sheets are included in the *Bid Book*.

2-1.33C(1) Proposal 1 - Proposal to the Board of Supervisors of Fresno County

2-1.33C(2) Proposal 2 - Bid Proposal Sheet

One or more sheet(s) upon which the bidder completes the bid.

Fill out completely including a unit price and total for each unit price-based item and a total for each lump sum item.

Do not make any additions such as "plus tax", "plus freight", or conditions such as "less 2% if paid by 15th".

Use ink or typewriter or submit through Bid Express.

2-1.33C(3) Proposal 3 – Award Criteria Figure

2-1.33C(4) Proposal 4 - Bid Security and Signature

Submit one of the following forms of bidder's security equal to at least \$25,000:

- Cash
- Cashier's check
- Certified check
- Signed bidder's bond by an admitted surety insurer
- Electronic bidder's bond by an admitted surety insurer

Indicate type of bid security provided.

- Cash – Acceptable but not recommended. Cash is deposited in a clearing account and is returned to bidders by County warrant. This process may take several weeks.
- Cashier's or Certified Checks. This type of security is held until the bid is no longer under consideration. If submitted by a potential awardee, they will be returned when the contract is fully executed by the bidder and bonds and insurance have been approved.
- Bid Bonds – Attach electronic bid bond to your Bid Express bid. If submitting a hard copy, please attach scanned copy to your Bid Express bid and submit hard copy to Design Services prior to the bid opening marked "Bid Bond – Do not open until bid opening" Identify the contract number and bid opening date on the envelope. Bid Bonds must be signed by the bidder and by the attorney-in-fact for the bonding company. Provide notarized signature of attorney-in-fact accompanied by bonding company's affidavit authorizing attorney-in-fact to execute bonds. An unsigned bid bond will be cause for rejection.

Provide contractor's license information.

State business name and if business is a:

- Corporation - list officers
- Partnership - list partners
- Joint Venture - list members; if members are corporations or partnerships, list their officers or partners.
- Individual - list Owner's name and firm name style

Signature of Bidder - the following lists types of companies and corresponding authorized signers.

- Corporation - by an officer

- Partnership - by a partner
- Joint Venture - by a member
- Individual - by the Owner

If signature is by a Branch Manager, Estimator, Agent, etc., the bid must be accompanied by a power of attorney authorizing the individual to sign the bid in question or to sign bids more generally, otherwise the bid may be rejected.

Business Address - Firm's Street Address

Mailing Address - P.O. Box or Street Address

Complete, sign, and return with bid.

2-1.33C(5) Proposal 5 - Noncollusion Declaration

Must be completed, signed, and returned with bid.

2-1.33C(6) Proposal 6 - Public Contract Code Section 10285.1 Statement

Check "has" or "has not" in accordance with instructions on form, return with completed for with bid. Note that signing the bid constitutes signing this statement.

2-1.33C(7) Proposal 7 - Public Contract Code Section 10162 Questionnaire And Public Contract Code 10232 Statement

Check: "yes" or "no" accordance with instructions on form, include explanation if "yes" is checked. Return completed form with bid. Note that signing the bid constitutes signing this questionnaire and statement.

2-1.33C(8) Proposal 8 - Certification With Regard To The Performance Of Previous Contracts Or Subcontracts Subject To The Equal Opportunity Clause And The Filing Of Required Reports

For a Federal-aid contract, complete, sign, and return with bid.

2-1.33C(9) Proposal 9 - Debarment And Suspension Certification

For a Federal-aid contract, complete, sign, and return with bid.

2-1.33C(10) Proposal 10 - Nonlobbying Certification For Federal-Aid Contracts

For a Federal-aid contract, complete, sign, and return with bid.

2-1.33C(11) Proposal 11 - Disclosure Of Lobbying Activities

For a Federal-aid contract, complete, sign, and return with bid.

2-1.35–2-1.39 RESERVED

2-1.40 BID WITHDRAWAL

1. Paper bids may be withdrawn by an authorized agent before the bid opening date and time by submitting a written bid withdrawal request at the location where the bid was submitted. Withdrawing a bid does not prevent you from submitting a new bid. An authorized agent is an individual authorized to submit a bid.
2. Electronic bids may be submitted and resubmitted on Bid Express an unlimited number of times prior to the bid opening time. Resubmitting a bid "withdraws" or saves over your previous bid.
3. After the bid opening time, you cannot withdraw a bid.

2-1.41–2-1.42 RESERVED

2-1.43 BID OPENING

The Department publicly opens and reads bids at the time and place shown on the *Notice to Bidders*.

2-1.44–2-1.45 RESERVED

2-1.46 DEPARTMENT'S DECISION ON BID

The Department's decision on the bid amount is final.

The Department may reject:

1. All bids
2. A nonresponsive bid

2-1.47 BID RELIEF

The Department may grant bid relief under Pub Cont Code § 5100 et seq. Submit any request for bid relief to Design Services.

2-1.48 RESERVED

2-1.49 SUBMITTAL FAILURE HISTORY

The Department considers a bidder's past failure to submit documents required after bid opening in determining a bidder's responsibility.

2-1.50 RESERVED

2-1.51 DISCLOSURE OF SELF-DEALING TRANSACTIONS

This provision is only applicable if the contractor is operating as a corporation (a for-profit or non-profit corporation) or if during the term of this agreement, the contractor changes its status to operate as a corporation.

Members of the contractor's Board of Directors shall disclose any self-dealing transactions that they are a party to while contractor is providing goods or performing services under this agreement. A self-dealing transaction shall mean a transaction to which the contractor is a party and in which one or more of its directors has a material financial interest. Members of the Board of Directors shall disclose any self-dealing transactions that they are a party to by completing and signing a Self-Dealing Transaction Disclosure Form which is included in *Project Details* of these special provisions.

In the event that the Contractor (to whom the project is awarded) is operating as a corporation or incorporates during the course of the construction contract, and any member of its board of directors is engaged or intends to become engaged in self-dealing transaction(s), each member of its board of directors who is engaged or intends to become engaged in a self-dealing transaction or transactions must complete and submit to the County a completed Self-Dealing Transaction Disclosure Form (in Project Details) for each such transaction prior to engaging therein or immediately thereafter.

3 CONTRACT AWARD AND EXECUTION

Replace the headings and paragraphs of Section 3 with:

3-1.01 GENERAL

Section 3 includes specifications related to contract award and execution.

3-1.02 CONSIDERATION OF BIDS

3-1.02A General

Bids will be compared on the basis listed in the Notice to Bidders.

3-1.02B Tied Bids

The Department breaks a tied bid with a coin toss:

3-1.03 CONTRACTOR REGISTRATION

No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

3-1.04 CONTRACT AWARD

3-1.04A BID PROTEST PROCEDURES

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

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

- a. The initial protest document shall contain a complete statement of the grounds for the protest, including a detailed statement of the factual basis and any supporting legal authority.
- b. The protest shall identify and address the specific portion of the document(s) forming the basis for the protest.
- c. The protest shall include the name, address and telephone number of the person representing the protesting party.
- d. The Department will provide a copy of the initial protest document and any attached documentation to all other Bidders or proposers who appear to have a reasonable prospect of receiving an award depending upon the outcome of the protest.
- e. The Board of Supervisors will issue a decision on the protest. If the Board of Supervisors determines that a protest is frivolous, the party originating the protest may be determined to be irresponsible and that party may be determined to be ineligible for future contract awards.
- f. The procedure and time limits set forth herein are mandatory and are the Bidder's sole and exclusive remedy in the event of a bid protest. Failure by the Bidder to comply with these procedures shall constitute a waiver of any right to further pursue the bid protest, including the subsequent filing of a Government Code Claim or legal proceedings.

3-1.04B AWARD PERIOD

If the Department awards the contract, the award is made to the lowest responsible bidder within 54 calendar days after bid opening.

The Department may extend the specified award period if the Bidder agrees.

You may request to extend the award period by faxing a request to Design Services before 4:00 p.m. on or before the last day of the award period. If you do not make this request, after the specified award period:

1. Your bid becomes invalid
2. You are not eligible for the award of the contract

3-1.05 CONTRACT BONDS (PUB CONT CODE §§ 10221 AND 10222)

The successful bidder must furnish two bonds conforming to the requirements in the *Agreement* of these special provisions.

3-1.06 CONTRACTOR LICENSE

For a federal-aid contract, the Contractor must be properly licensed as a contractor from contract award through Contract acceptance (Pub Cont Code § 10164).

For a non-federal-aid contract:

1. Contractor must be properly licensed as a contractor from bid opening through Contract acceptance (Bus & Prof Code § 7028.15)
2. Joint venture bidders must obtain a joint venture license before contract award (Bus & Prof Code § 7029.1)

3-1.07 INSURANCE POLICIES

The successful bidder must submit copies of its insurance policies conforming to the requirements in the *Agreement* of these special provisions.

3-1.08 –3-1.10 RESERVED

3-1.11 PAYEE DATA RECORD

Complete and deliver to the Engineer a Payee Data Record form when requested by the Engineer.

3-1.12 RESERVED

3-1.13–3-1.17 RESERVED

3-1.18 CONTRACT EXECUTION

The successful bidder must sign the *Agreement*.

Deliver to Design Services:

1. Signed *Agreement*
2. Contract bonds
3. Documents identified in section 3-1.07

Design Services must receive these documents before the 10th business day after the bidder receives the contract.

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

3-1.19 BIDDERS' SECURITIES

The Department keeps the securities of the 1st, 2nd, and 3rd low bidders until the contract has been executed. The other bidders' securities, other than bidders' bonds, are returned upon determination of the 1st, 2nd, and 3rd low bidders, and their bidders' bonds are of no further effect (Pub Cont Code § 10184).

4 SCOPE OF WORK

Replace Section 4-1.02 with:

4-1.02 INTENT

The Contract intent is to provide for work completion using the best general practices.

Nothing in the specifications, special provisions, Standard Specifications, or in any other Contract document voids the Contractor's public safety responsibilities.

Replace Section 4-1.03 with:

4-1.03 WORK DESCRIPTION

The work of this Contract will be set forth in the Detailed Scopes of Work referenced in the individual Job Orders. The Contractor is required to complete each Detailed Scope of Work for the Job Order Price within the Job Order Completion Time.

4-1.03A PROCEDURES FOR DEVELOPING A JOB ORDER

1. Initiation of a Job Order

The County may award an individual Job Order to any selected Contractor. Selection of the Contractor and award of the Job Order will be in compliance with established County procedures and based on one or more of the following criteria:

- 1.1. Rotational selection among all Contractors, unless otherwise determined by the County.
- 1.2. Evaluation of past and current performance on Job Orders of a similar nature and type of work, project size, construction management challenges, schedule performance, design management requirements, etc.
- 1.3. Balancing of work load (Job Order dollar volume and construction backlog) among Contractors.
- 1.4. Management of Job Order dollar volume within bonding limitations of the Contractor.
- 1.5. Contractor's responsiveness to the County on Job Orders.
- 1.6. Other appropriate criteria as deemed in the best interest of the County.

As the need exists, the County 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:

- 1.1. the general scope of the work;
- 1.2. alternatives for performing the work and value engineering;
- 1.3. access to the site and protocol for admission;
- 1.4. hours of operation;
- 1.5. staging area;
- 1.6. requirements for catalog cuts, technical data, samples and shop drawings;
- 1.7. requirements for professional services, sketches, drawings, and specifications;
- 1.8. construction duration;
- 1.9. liquidated damages;
- 1.10. the presence of hazardous materials;
- 1.11. date on which the Job Order Proposal is due.

Upon completion of the joint scoping process, the County 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 changes or modifications. When an acceptable Detailed Scope of Work has been prepared, the County will issue a Request for Proposal that will require the Contractor to prepare a Job Order Proposal. The Detailed Scope of Work, unless modified by both the Contractor and the County, will be the basis on which the Contractor will develop its Job Order Proposal and the County will evaluate the same. The Contractor does not have the right to refuse to perform any task or any work in connection with a particular Project.

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

2. Preparation of the Job Order Proposal

The Contractor's Job Order Proposal shall include, at a minimum:

- 2.1. Job Order Price Proposal;
- 2.2. Required drawings or sketches;
- 2.3. List of anticipated Subcontractors and Materialmen;
- 2.4. Construction schedule;
- 2.5. Other requested documents.

3. Preparation of the Job Order Price Proposal

The Job Order Price shall be the value of the approved Job Order Price Proposal.

The value of the Job Order Price Proposal shall be calculated by summing the total of the calculations for each Pre-priced Tasks (unit price x quantity x Adjustment Factor) plus the value of all Non Pre-priced Tasks.

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

- 3.1. Pre-priced Task: A task described in, and for which a unit price is set forth in, the Construction Task Catalog®.
- 3.2. Non Pre-priced Task: A task that is not set forth in the Construction Task Catalog®.
- 3.3. Information submitted in support of Non Pre-priced Tasks shall include, but not be limited to, the following:
- a. Catalog cuts, specifications, technical data, drawings, or other information as required to evaluate the task.
 - b. If the Contractor will perform the work with its own forces, it shall submit three independent quotes for all material to be installed and shall, to the extent possible, use Pre-priced Tasks for labor and equipment from the Construction Task Catalog®. If the work is to be subcontracted, the Contractor must submit three independent quotes from subcontractors. The Contractor shall not submit a quote or bid from any supplier or subcontractor that the Contractor is not prepared to use. The County may require additional quotes and bids if the suppliers or subcontractors are not acceptable or if the prices are not reasonable.
 - c. The final price submitted for Non Pre-priced Tasks shall be according to the following formula:
 Contractor Performed Duties
 A = The hourly rate for each trade classification not in the Construction Task Catalog® multiplied by the quantity;
 B = The rate for each piece of Equipment not in the Construction Task Catalog® multiplied by the quantity;
 C = The lowest of three independent quotes for all materials
 Total Cost for self-performed work = (A+B+C) x Normal Hours Adjustment Factor
 For Work performed by Subcontractors:
 If the Work is to be subcontracted, the Contractor must submit three independent bids from Subcontractors. If three quotes or bids cannot be obtained, the Contractor will provide the reason in writing for the County's approval as to why three quotes cannot be submitted.
 D = Subcontractor Costs (supported by three quotes)
 Total Cost for Non Pre-Priced Tasks performed by Subcontractors = D x Normal Working Hours Adjustment Factor.
 - d. After a Non Pre-priced Task has been approved by the County, the Unit Price for such task will be established, and fixed as a permanent Non Pre-priced Task which will no longer require price justification.
 - e. The County's determination as to whether an item is a Pre-priced Task or a Non Pre-priced Task shall be final, binding and conclusive as to the Contractor.
 - f. On a case-by-case basis, if three quotes cannot be obtained, less than three quotes may be accepted but must be approved in advance by the County.

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

Contractor shall make the necessary arrangements for and obtain all filings and permits required for the Work, including the preparation of all drawings, sketches, calculations and other documents and information that may be required therefor. If the Contractor is required to pay an application fee for filing a project, a fee to obtain a building permit, or any other permit fee to the City, State or some other governmental or regulatory agency, then the amount of such fee paid by the Contractor for which a receipt is obtained shall be treated as a Reimbursable Task to be paid without mark-up. The cost of expediting services or equipment use fees are not reimbursable.

The Contractor shall provide incidental engineering and architectural services required in connection with a particular Job Order including drawings and information required for filing.

The Contractor's Job Order Proposal shall be submitted by the date indicated on the Request for Proposal. All incomplete Job Order Proposals shall be rejected. The time allowed for preparation of the Contractor's Job Order Proposal will depend on the complexity and urgency of the Job Order but should average between seven and fourteen days. On complex Job Orders, such as Job Orders requiring incidental engineering/architectural drawings and approvals and permits, allowance will be made to provide adequate time for preparation and submittal of the necessary documents.

In emergency situations and minor maintenance and repair Job Orders requiring immediate completion, the Job Order Proposal may be required quickly and the due date will be so indicated on the Request for Proposal or, as described below, the Contractor may be directed to begin work immediately with the paperwork to follow.

By submitting a Job Order Proposal to the County, the Contractor agrees to accomplish the Detailed Scope of Work in accordance with the Request for Proposal at the price submitted. It is the Contractor's responsibility to include the necessary tasks and quantities in the Price Proposal and apply the appropriate Adjustment Factor(s) prior to delivering it to the County.

If the Contractor requires clarifications or additional information regarding the scope of work in order to prepare the Job Order Proposal, the request must be submitted so that the submittal of the Job Order Proposal is not delayed.

4. Review of the Job Order Proposal and Issuance of the Job Order

The County will evaluate the entire Price Proposal and compare these with the County's estimate of the Detailed Scope of Work to determine the reasonableness of approach, including the appropriateness of the tasks and quantities proposed.

The Contractor may choose the means and methods of construction; subject however, to the County's right to reject any means and methods proposed by the Contractor that:

- 4.1. Will constitute or create a hazard to the work, or to persons or property; or
- 4.2. Will not produce finished Work in accordance with the terms of the Contract; or
- 4.3. Unnecessarily increases the price of the Job Order when alternative means and methods are available.

The County reserves the right to reject a Job Order Proposal or cancel a Project for any reason. The County also reserves the right not to issue a Job Order if it is determined to be in the best interests of the County. The County may perform such work by other means. The Contractor shall not recover any costs arising out of or related to the development of the Job Order including but not limited to the costs to attend the Joint Scope Meeting, review the Detailed Scope of Work, prepare a Job Order Proposal (including incidental architectural and engineering services), subcontractor costs, and the costs to review the Job Order Proposal with the County.

By submitting a Job Order Proposal to the County, the Contractor agrees to accomplish the Detailed Scope of Work in accordance with the Request for Proposal at the lump sum price submitted. It is the Contractor's responsibility to include the necessary Pre-priced Tasks and Non Pre-priced Tasks and quantities in the Job Order Price Proposal prior to delivering it to the County.

Each Job Order provided to the Contractor shall reference the Detailed Scope of Work and set forth the Job Order Price and the Job Order Completion Time. All clauses of this Contract shall be applicable to each Job Order. The Job Order, issued by the County Contract Manager and delivered to the Contractor along with a Notice to Proceed signed by the County Contract Manager constitutes acceptance of the Contractor's Job Order Proposal on behalf of the County.

In the event that immediate emergency response is necessary, the Contractor shall be required to follow alternative procedures as established by the County. The Contractor shall begin work as directed notwithstanding the absence of a fully developed Request for Proposal, Detailed Scope of Work, or Job Order. The Contractor shall be compensated for such work as if the work had been ordered under the standard procedures.

Replace Section 4-1.05 with:

4-1.05 CHANGES AND EXTRA WORK

4-1.05A General

The Department, without invalidating the Job Order, may order changes in the Work by altering, adding to or deducting from the Work, by issuing a Supplemental Job Order.

Continue contract operations as directed by the Engineer pending approval of any Supplemental Job Order. Do not begin Supplemental Job Order work until the Notice to Proceed for the Supplemental Job Order has been issued.

Credits for Pre-priced and Non Pre-priced Tasks shall be calculated at the pre-set Unit Prices and multiplied by the appropriate Adjustment Factors. The result is that a credit for Tasks that have been deleted from the Detailed Scope of Work will be given at 100% of the value at which they were included in the original Job Order Price Proposal.

Replace Section 4-1.07C with:

4-1.07C Reserved

Replace Section 4-1.13 with:

4-1.13 CLEANUP

Before final inspection, leave the job site neat and presentable and dispose of:

1. Rubbish
2. Excess materials
3. Falsework
4. Temporary structures
5. Equipment

Remove warning, regulatory, and guide signs when directed by the Engineer.

5 CONTROL OF WORK

Delete the 9th Paragraph of Section 5-1.01

Add the following before the last sentence in Section 5-1.02

Caltrans Standard Plans, City of Fresno Standard Drawings, and any other other-agency Standard Drawings included in the "Project Details" section of the book entitled "Specifications" have the same ranking as Standard Plans."

All other drawings in the "Project Details" section of the book entitled "Specifications" have the same ranking as Project Plans.

Tables and other documents in the "Project Details" section of the book entitled "Specifications" have the same ranking as Special Provisions. If a portion of a document in the Project Details section conflicts with the Special Provisions, the Special Provisions shall prevail.

Replace Section 5-1.09 with:

5-1.09 RESERVED

Replace Section 5-1.12 with:

5-1.12 ASSIGNMENT

No third-party agreement relieves you or your surety of the responsibility to complete the work. Do not sell, transfer, or otherwise dispose of any Contract part without prior written consent from the Department.

If you assign the right to receive Contract payments, the Engineer accepts the assignment upon the Engineer's receipt of a notice. Assigned payments remain subject to deductions and withholds described in the Contract. The Department may use withheld payments for work completion whether payments are assigned or not.

A pending or disapproved request for assignment does not relieve you of the responsibility to commence and pursue work timely and in strict accordance with contract documents.

Replace Section 5-1.13C with:

5-1.13C RESERVED

Replace Section 5-1.13D with:

5-1.13D RESERVED

Add the following paragraph to the end of section 5-1.16 with:

Submit Daily Log records to the Engineer weekly for the entire course of work unless the Engineer requests another interval.

Replace Section 5-1.20B(4) with:

5-1.20B(4) Contractor–Property Owner Agreement

Before procuring material from or disposing or stockpiling of material on non-highway property:

1. Provide proof that the property where materials are to be stockpiled or equipment parked/stored is appropriately zoned and/or permitted for the use proposed by the Contractor.
2. Obtain written authorization from each and every owner of the property where materials are to be stockpiled or equipment parked/stored.
3. Provide proof that the signor(s) of the authorization are the owners of the property.
4. Provide an executed release from the property owner(s) absolving the Department from any and all responsibility in connection with the stockpiling of materials or parking/storage of equipment on said property.
5. Obtain written permission from the Engineer to stockpile materials or park/store equipment at the location designated in said authorization.

Before Contract acceptance, submit a document signed by the owner of the material source or disposal site stating that the Contractor has complied with the Contractor-owner agreement.

Failure by the Contractor to provide written authorization shall result in the withholding of all funds due to the Contractor until said authorization is received by the County.

Replace Section 5-1.20C with:

5-1.20C Railroad Relations

If the Contract includes an agreement with a railroad company, the Department makes the provisions of the agreement available in Project Details in the document titled "Railroad Relations and Insurance Requirements." Comply with the requirements in the document.

Replace Section 5-1.23A with:

5-1.23A General

Section 5-1.23 includes specifications for action and informational submittals.

Any submittal not specified as an informational submittal is an action submittal.

Submit action and informational submittals to the Engineer. Unless otherwise specified in these Specifications, submittals shall be provided via email in .pdf format.

Each submittal must have a cover sheet that must include:

1. Contract number
2. Project Name
3. Date
4. Submittals (and resubmittals if applicable) must be numbered sequentially
5. Structure number if applicable
6. Contractor
7. Person responsible for submitting the submittal

8. Signature of Contractor's representative sending submittal
9. Section number and/or item submittal is referencing
10. Pages of submittal, excluding cover sheet

The Department rejects a submittal if it has any error or omission.

If the last day for submitting a document falls on a Saturday or holiday, it may be submitted on the next business day with the same effect as if it had been submitted on the day specified.

Documents must be submitted in the English language.

Convert documents to US customary units.

Replace Section 5-1.26 with:

5-1.26 CONSTRUCTION SURVEYS

The Engineer places stakes and/or marks as the Engineer determines to be necessary to establish the lines and grades required for the work.

Submit your request for Engineer-furnished stakes:

1. Once staking area is ready for stakes
2. On a Request for Construction Stakes form

After your submittal, the Engineer starts staking within 2 working days.

Preserve stakes and marks placed by the Engineer. If the stakes or marks are destroyed, the Engineer replaces them at the Engineer's earliest convenience and deducts the cost.

5-1.27 COMPUTER REQUIREMENTS

The Contractor shall maintain at its office for its use a computer with, at a minimum, a 1 GHz processor and an internet connection. The Contractor shall maintain individual email accounts for each of its project managers.

5-1.28 JOB ORDER CONTRACTING SOFTWARE

The County selected The Gordian Group's (Gordian) Job Order Contracting (JOC) system for the execution of the JOC program. The Gordian JOC system includes The Gordian Group'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 and Proprietary Information.

Delete Section 5-1.27E

5-1.32 AREAS FOR USE

Occupy the highway only for purposes necessary to perform the work.

Defend, indemnify, and hold the Department harmless to the same extent as under section 7-1.05.

The Department does not allow temporary residences within the County right-of-way.

6 CONTROL OF MATERIALS

Replace section 6-1.05 with:

6-1.05 SPECIFIC BRAND OR TRADE NAME AND SUBSTITUTION

Unless substitution is expressly precluded in the special provisions, a reference to a specific brand or trade name establishes a quality standard and is not intended to limit competition. Unless the Department has made a public interest finding expressly authorizing sole source procurement of a particular item, you may use a product that is equal to or better than the specified brand or trade name if authorized.

Submit a substitution request with a time period that:

1. Follows Contract award
2. Allows 30 days for review
3. Causes no delay

Include substantiating data with the substitution request that proves that substitution:

1. Causes no delay
2. Is of equal or better quality and suitability

If the special provisions disallow substitution of a particular item, provide the specified item and do not propose substitution.

7 LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC

Replace the 2nd Paragraph of Section 7-1.02K(2) with:

The general prevailing wage rates and any applicable changes to these wage rates are available:

1. From Design Services
2. From the Department of Industrial Relations' Web site

Replace section 7-1.02K(3) with:

Keep accurate payroll records.

Submit a copy of your certified payroll records, weekly, including those of subcontractors. Include:

1. Each employee's:
 - 1.1. Full name
 - 1.2. Address
 - 1.3. Social security number
 - 1.4. Work classification
 - 1.5. Straight time and overtime hours worked each day and week
 - 1.6. Actual wages paid for each day to each:
 - 1.6.1. Journeyman
 - 1.6.2. Apprentice
 - 1.6.3. Worker
 - 1.6.4. Other employee you employ for the work
 - 1.7. Pay rate
 - 1.8. Itemized deductions made
 - 1.9. Check number issued
 - 1.10. Fringe Benefits
2. Apprentices and the apprentice-to-journeyman ratio

Each certified payroll record must include a Statement of Compliance form signed under penalty of perjury that declares:

1. Information contained in the payroll record is true, correct, and complete
2. Employer has complied with the requirements of sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project
3. Wage rates paid are at least those required by the Contract

Submitted certified payrolls for hauling and delivering ready-mixed concrete must be accompanied by a written time record. The time record must include:

1. Truck driver's full name and address
2. Name and address of the factory or batching plant
3. Time the concrete was loaded at the factory or batching plant
4. Time the truck returned to the factory or batching plant
5. Truck driver's signature certifying under penalty of perjury that the information contained in this written time record is true and correct

Make certified payroll records available for inspection at all reasonable hours at your main office on the following basis:

1. Upon the employee's request or upon request of the employee's authorized representative, make available for inspection a certified copy of the employee's payroll record.
2. Refer the public's requests for certified payroll records to the Department. Upon the public's request, the Department makes available for inspection or furnishes copies of your certified payroll records. Do not give the public access to the records at your main office.

Make all payroll records available for inspection and copying or furnish a copy upon request of a representative of the:

1. Department
2. Division of Labor Standards Enforcement of the Department of Industrial Relations
3. Division of Apprenticeship Standards of the Department of Industrial Relations

Furnish the Department the location of the records. Include the street address, city, and county. Furnish the Department a notification of a location and address change within 5 business days of the change.

Comply with a request for the records within 10 days after you receive a written request. If you do not comply within this period, the Department withholds from progress payments a \$100 penalty for each day or part of a day for each worker until you comply. You are not assessed this penalty for a subcontractor's failure to comply with Labor Code § 1776.

The Department withholds from progress payments for delinquent or inadequate records (Labor Code § 1771.5). If you have not submitted an adequate record by the month's 15th day for the period ending on or before the 1st of that month, the Department withholds up to 10 percent of the monthly progress estimate, exclusive of mobilization. The Department does not withhold more than \$10,000 or less than \$1,000.

7-1.02K(4)i Apprenticeship Requirements for non-Federal Projects

- 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.
- D. Fresno County is committed to increasing the availability of employment and training opportunities, with particular attention to the plight of those who are most economically disadvantaged. In an effort to advance that purpose, the County will require that the Contractor and each subcontractor employed on this Project shall use their best efforts to ensure that thirty-three percent (33%) of apprentice hours, as determined by California Labor Code Section 1777.5 for each contractor and subcontractor of any tier on this Project, are performed by qualified participants in state approved apprenticeship programs who also are current or former "Welfare-to-Work" participants in the CalWORKs program. Provided, that nothing contained in this Paragraph D shall be interpreted to relieve or in any way diminish the obligation of the Contractor and each subcontractor to comply fully with all applicable apprenticeship laws in accordance with the California Labor Code and the California Code of Regulations; and accordingly such requirements as are contractually imposed by this Paragraph D shall be in addition to such legally mandated requirements, and applicable only to the extent fully consistent therewith.

Replace Section 7-1.02K(6)(j)(iii) with:

Section 7-1.02K(6)(j)(iii) applies if earth material containing lead is present at the job site.

Section 7-1.02K(6)(j)(iii) Earth Material Containing Lead

Section 7-1.02K(6)(j)(iii) includes specifications for handling, removing, and disposing of earth material containing lead.

Lead is present in earth material on the job site. Management of this material exposes workers to health hazards that must be addressed in your lead compliance plan. The average lead concentrations are below 1,000 mg/kg total lead and below 5 mg/L soluble lead. The material on the job site:

1. Is not a hazardous waste
2. Does not require disposal at a permitted landfill or solid waste disposal facility

Lead is typically found within the top 2 feet of material in unpaved areas of the highway. Reuse all of the excavated material on the right-of-way. Haul and place the surplus excavated material on the right-of-way at _____.

Lead has been detected in material to a depth of _____ in unpaved areas of the highway. Levels of lead found on the job site range from less than _____ to _____ mg/kg total lead with an average concentration of _____ mg/kg total lead as analyzed by EPA test method 6010 or EPA test method 7000 series and based upon a 95 percent upper confidence limit. Levels of lead found within the project limits have a predicted average soluble concentration of _____ mg/L as analyzed by the California Waste Extraction Test and based upon a 95 percent upper confidence limit.

Handle the material under all applicable laws, rules, and regulations, including those of the following agencies:

1. Cal/OSHA
2. CA RWQCB, Region 5-Central Valley
3. CA Department of Toxic Substances Control
4. _____

Manage the material as shown in the following table.

Earth Material Management

Location	Depth	Management requirements

If the material is disposed of:

1. Disclose the lead concentration of the material to the receiving property owner when obtaining authorization for disposal on the property
2. Obtain the receiving property owner's acknowledgment of lead concentration disclosure in the written authorization for disposal
3. You are responsible for any additional sampling and analysis required by the receiving property owner

If you choose to dispose of the material at a commercial landfill:

1. Transport it to a Class III or Class II landfill appropriately permitted to receive the material
2. You are responsible for identifying the appropriately permitted landfill to receive the material and for all associated trucking and disposal costs, including any additional sampling and analysis required by the receiving landfill

Section 7-1.02M(2) applies use if requested by the district and under the applicable forest service permit

Replace Section 7-1.02M(2) with:

7-1.02M(2) Fire Prevention

Cooperate with local fire prevention authorities in eliminating hazardous fire conditions.

Obtain the phone numbers of the nearest fire suppression agency, California Department of Forestry and Fire Protection (Cal Fire) unit headquarters, United States Forest Service (USFS) ranger district office, and U.S. Department of Interior (USDI) BLM field office. Submit these phone numbers to the Engineer before the start of job site activities.

Immediately report to the nearest fire suppression agency fires occurring within the project limits.

Prevent project personnel from setting open fires that are not part of the work.

Prevent the escape of and extinguish fires caused directly or indirectly by job site activities

Except for motor trucks, truck tractors, buses, and passenger vehicles, equip all hydrocarbon-fueled engines, both stationary and mobile including motorcycles, with spark arresters that meet USFS standards as specified in the *Forest Service Spark Arrester Guide*. Maintain the spark arresters in good operating condition. Spark arresters are not required by Cal Fire, the BLM, or the USFS on equipment powered by properly maintained exhaust-driven turbo-charged engines or equipped with scrubbers with properly maintained water levels. The *Forest Service Spark Arrester Guide* is available at the district offices.

Each toilet must have a metal ashtray at least 6 inches in diameter by 8 inches deep half-filled with sand and within easy reach of anyone using the facility.

Locate flammable materials at least 50 feet away from equipment service, parking, and gas and oil storage areas. Each small mobile or stationary engine site must be cleared of flammable material for a radius of at least 15 feet from the engine.

Each area to be cleared and grubbed must be cleared and kept clear of flammable material such as dry grass, weeds, brush, downed trees, oily rags and waste, paper, cartons, and plastic waste. Before clearing and grubbing, clear a fire break at the outer limits of the areas to be cleared and grubbed. Other fire breaks may be ordered and are change order work.

Furnish the following fire tools:

1. 1 shovel and 1 fully charged fire extinguisher UL rated at 4 B:C or more on each truck, personnel vehicle, tractor, grader, or other heavy equipment.
2. 1 shovel and 1 backpack 5-gallon water-filled tank with pump for each welder.
3. 1 shovel or 1 chemical pressurized fire extinguisher, fully charged, for each gasoline-powered tool, including chain saws, soil augers, and rock drills. The fire tools must always be within 25 feet from the point of operation of the power tool. Each fire extinguisher must be of the type and size required by the Pub Res Code § 4431 and 14 CA Code of Regs § 1234. Each shovel must be size O or larger and at least 46 inches long.

Furnish a pickup truck and driver for the sole purpose of fire control during working hours. The truck must be equipped with:

1. 10 shovels, 5 axes, 2 backpack 5-gallon water-filled tanks with pumps
2. 100-gallon tank of water with a gasoline motor powered pump and 100 feet of 3/4-inch hose on a reel.

The pickup truck and operator must patrol the area of construction for at least 1/2 hour after job site activities have ended.

In addition to being available at the site of the work, the truck and operator must patrol the area of construction from noon until at least 1/2 hour after job site activities have ended. If the fire danger rating is very high or extreme, the truck and operator must patrol the area of construction while work is being done and for at least 1/2 hour after job site activities have ended.

Cal Fire, USFS, and BLM have established the following adjective class ratings for 5 levels of fire danger for use in public information releases and fire protection signing: low, moderate, high, very high, extreme. Obtain the fire danger rating daily for the project area from the nearest Cal Fire unit headquarters, USFS ranger district office, or BLM field office.

Arrangements have been made with Cal Fire, USFS, and BLM to notify the Department when the fire danger rating is very high or extreme. This information will be furnished to the Engineer who will notify you for dissemination and action in the area affected. If a discrepancy between this notice and the fire danger rating obtained from the nearest office of either Cal Fire or USFS exists, you must conduct operations according to the higher of the two fire danger ratings.

If the fire danger rating reaches very high:

1. Falling of dead trees or snags must be discontinued.
2. No open burning is permitted and fires must be extinguished.
3. Welding must be discontinued except in an enclosed building or within an area cleared of flammable material for a radius of 15 feet.
4. Blasting must be discontinued.
5. Smoking is allowed only in automobiles and cabs of trucks equipped with an ashtray or in cleared areas immediately surrounded by a fire break unless prohibited by other authority.
6. Vehicular travel is restricted to cleared areas except in case of emergency.

If the fire danger rating reaches extreme, take the precautions specified for a very high fire danger rating except smoking is not allowed in an area immediately surrounded by a firebreak and work of a nature that could start a fire requires that properly equipped fire guards be assigned to such operation for the duration of the work.

The Engineer may suspend work wholly or in part due to hazardous fire conditions. The days during this suspension are non-working days.

If field and weather conditions become such that the determination of the fire danger rating is suspended, section 7-1.02M(2) will not be enforced for the period of the suspension of the determination of the fire danger rating. The Engineer will notify you of the dates of the suspension and resumption of the determination of the fire danger rating.

Add between the 9th and 10th paragraphs of section 7-1.03:

07-15-16

If a height differential of more than 0.04 foot is created by construction activities at a joint transverse to the direction of traffic on the traveled way or a shoulder subject to public traffic, construct a temporary taper at the joint with a slope complying with the requirements shown in the following table:

Temporary Tapers

Height differential (foot)	Slope (horizontal:vertical)	
	Taper use of 14 days or less	Taper use of more than 14 days
Greater than 0.08	100:1 or flatter	200:1 or flatter
0.04–0.08	70:1 or flatter	70:1 or flatter

For a taper on existing asphalt concrete or concrete pavement, construct the taper with minor HMA under section 39-2.07.

Grind existing surfaces to accommodate a minimum taper thickness of 0.10 foot under either of the following conditions:

1. HMA material such as rubberized HMA, polymer-modified bonded wearing course, or open-graded friction course is unsuitable for raking to a maximum 0.02 foot thickness at the edge
2. Taper will be in place for more than 14 days

For a taper on a bridge deck or approach slab, construct the taper with polyester concrete under section 60-3.04B.

The completed surface of the taper must be uniform and must not vary more than 0.02 foot from the lower edge of a 12-foot straightedge when placed on its surface parallel and perpendicular to traffic.

If authorized, you may use alternative materials or methods to construct the required taper.

Replace Section 7-1.04 with:

7-1.04 PUBLIC SAFETY

7-1.04A GENERAL

You are responsible to provide for public safety.

Do not construct a temporary facility that interferes with the safe passage of traffic.

Control dust resulting from the work, inside and outside the right-of-way.

Move workers, equipment, and materials without endangering traffic.

Whenever your activities create a condition hazardous to the public, furnish, erect and maintain those fences, temporary railing, barricades, lights, signs, and other devices and take any other necessary protective measures to prevent damage or injury to the public.

Any fences, temporary railing, barricades, lights, signs, or other devices furnished, erected and maintained by you are in addition to those for which payment is provided elsewhere in the specifications.

Provide flaggers whenever necessary to ensure that the public is given safe guidance through the work zone. At locations where traffic is being routed through construction under one-way controls, move your equipment in compliance with the one-way controls unless otherwise ordered.

Use of signs, lights, flags, or other protective devices must comply with the *California MUTCD* and any directions of the Engineer. Signs, lights, flags or other protective devices must not obscure the visibility of, nor conflict in intent, meaning, and function of either existing signs, lights and traffic control devices, or any construction area signs.

Keep existing traffic signals and highway lighting in operation. Other forces within the Department will perform routine maintenance of these facilities during the work.

Cover signs that direct traffic to a closed area.

Install temporary illumination in a manner which the illumination and the illumination equipment does not interfere with public safety. The installation of general roadway illumination does not relieve you from furnishing and maintaining any protective devices.

Equipment must enter and leave the highway via existing ramps and crossovers and must move in the direction of traffic. All movements of workmen and construction equipment on or across lanes open to traffic must be performed in a manner that do not endanger the public. Your vehicles or other mobile equipment leaving an open traffic lane to

enter the construction area must slow down gradually in advance of the location of the turnoff to give the traffic following an opportunity to slow down. When leaving a work area and entering a roadway carrying traffic, your vehicles and equipment must yield to traffic.

Immediately remove hauling spillage from a roadway lane or shoulder open to traffic. When hauling on roadways, trim loads and remove material from shelf areas to minimize spillage.

Notify the Engineer not less than 5 days before the anticipated start of an activity that will change the vertical or horizontal clearance available to traffic, including shoulders.

If vertical clearance is temporarily reduced to 15.5 feet or less, place low clearance warning signs in compliance with the *California MUTCD* and any directions of the Engineer. Signs must comply with the dimensions, color, and legend requirements of the *California MUTCD* and section 12-3.06 except that the signs must have black letters and numbers on an orange retroreflective background. W12-2P signs must be illuminated so that the signs are clearly visible.

Pave or provide full width continuous and cleared wood walks for pedestrian openings through falsework. Protect pedestrians from falling objects and concrete-curing water. Extend overhead protection for pedestrians at least 4 feet beyond the edge of the bridge deck. Illuminate all pedestrian openings through falsework. Temporary pedestrian facilities must comply with the *California MUTCD*, Part 6, Chapter 6D, "Pedestrian and Worker Safety."

Do not store vehicles, material, or equipment in a way that:

1. Creates a hazard to the public
2. Obstructs traffic control devices

Do not install or place temporary facilities used to perform the work which interfere with the free and safe passage of traffic.

Temporary facilities that could be a hazard to public safety if improperly designed must comply with design requirements described in the Contract for those facilities or, if none are described, with standard design criteria or codes appropriate for the facility involved. Submit shop drawings and design calculations for the temporary facilities and show the standard design criteria or codes used. Shop drawings and supplemental calculations must be sealed and signed by an engineer who is registered as a civil engineer in the State.

If you appear to be neglectful or negligent in furnishing warning devices and taking protective measures, the Engineer may direct your attention to the existence of a hazard. You must furnish and install the necessary warning devices. If the Engineer points out the inadequacy of warning devices and protective measures, that action on the part of the Engineer does not relieve you from your responsibility for public safety or abrogate your obligation to furnish and pay for these devices and measures.

Install Type K temporary railing or other authorized protective systems under any of the following conditions:

1. Excavations: Where the near edge of the excavation is within 15 feet from the edge of an open traffic lane
2. Temporarily unprotected permanent obstacles: When the work includes the installation of a fixed obstacle together with a protective system, such as a sign structure together with protective railing, and you elect to install the obstacle before installing the protective system; or you, for your convenience and as authorized, remove a portion of an existing protective railing at an obstacle and do not replace such railing completely the same day
3. Storage areas: When material or equipment is stored within 15 feet of the edge of an open traffic lane and the storage is not otherwise prohibited by the Contract
4. Height differentials: When construction operations create a height differential greater than 0.15 feet within 15 feet of the edge of traffic lane

Installation of Type K temporary railing is not required if an excavation within 15 feet from the edge of an open traffic lane is protected by any of the following:

1. Steel plate or concrete covers of adequate thickness to prevent accidental entry by traffic or the public
2. Side slope where the downhill slope is 4:1 (horizontal: vertical) or less unless a naturally occurring condition
3. Barrier or railing

Offset the approach end of Type K temporary railing a minimum of 15 feet from the edge of an open traffic lane. Install the temporary railing on a skew toward the edge of the traffic lane of not more than 1 foot transversely to 10 feet

longitudinally with respect to the edge of the traffic lane. If the 15-foot minimum offset cannot be achieved, the temporary railing must be installed on the 10 to 1 skew to obtain the maximum available offset between the approach end of the railing and the edge of the traffic lane, and an array of temporary crash cushion modules must be installed at the approach end of the temporary railing.

Secure Type K temporary railing in place before starting work for which the temporary railing is required.

Where 2 or more lanes in the same direction are adjacent to the area where the work is being performed, including shoulders, the adjacent lane must be closed under any of the following conditions:

1. Work is off the traveled way but within 6 feet of the edge of the traveled way, and the approach speed is greater than 45 miles per hour
2. Work is off the traveled way but within 3 feet of the edge of the traveled way, and the approach speed is less than 45 miles per hour

Closure of the adjacent traffic lane is not required when performing any of the following:

1. Working behind a barrier
2. Paving, grinding, or grooving
3. Installing, maintaining, or removing traffic control devices except Type K temporary railing

Do not reduce an open traffic lane width to less than 10 feet. When traffic cones or delineators are used for temporary edge delineation, the side of the base of the cones or delineators nearest to traffic is considered the edge of the traveled way.

If a traffic lane is closed with channelizers for excavation work, move the devices to the adjacent edge of the traveled way when not excavating. Space the devices as specified for the lane closure.

Do not move or temporarily suspend anything over a traffic lane open to the public unless the public is protected.

7-1.04B WORK ZONE SAFETY AND MOBILITY

7-1.04B(1) POLICY

In order to ensure safe and efficient flow of traffic through work zones, the County of Fresno, via its General Plan, Transportation and Circulation Element, Policy TRA-1, has adopted the use of AASHTO Standards as supplemented by Caltrans and County Department of Public Works and Planning Standards.

7-1.04B(2) TRAFFIC MANAGEMENT PLAN

Perform traffic management shall be in accordance with Section 12, "TEMPORARY TRAFFIC CONTROL," of these special provisions.

7-1.04B(3) TEMPORARY TRAFFIC CONTROL PLAN

Prepare traffic control plan(s) in accordance with Section 12, "TEMPORARY TRAFFIC CONTROL," of these special provisions.

7-1.04B(4) PUBLIC INFORMATION

Provide notice to public agencies and others to the extent required, if any, elsewhere in these special provisions. The Engineer provides other noticing not identified to be performed by the Contractor.

Replace Section 7-1.06 with:

7-1.06 INSURANCE

7-1.06A General

Nothing in the Contract is intended to establish a standard of care owed to any member of the public or to extend to the public the status of a third-party beneficiary for any of these insurance specifications.

7-1.06B Casualty Insurance

Obtain and maintain insurance on all of your operations with companies acceptable to the Department as follows:

1. Keep all insurance in full force and effect from the start of the work through Contract acceptance.
2. All insurance must be with an insurance company with a rating from A.M. Best Financial Strength Rating of A or better and a Financial Size Category of VIII or better.
3. Maintain completed operations coverage with a carrier acceptable to the State through the expiration of the patent deficiency in construction statute of repose set forth in Civ Pro Code § 337.1.

7-1.06C Workers' Compensation and Employer's Liability Insurance

Under Labor Code § 1860, secure the payment of worker's compensation under Labor Code § 3700.

Submit to the Department the following certification before performing the work (Labor Code § 1861):

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

Contract signing constitutes certification submittal.

Provide Employer's Liability Insurance in amounts not less than:

1. \$1,000,000 for each accident for bodily injury by accident
2. \$1,000,000 policy limit for bodily injury by disease
3. \$1,000,000 for each employee for bodily injury by disease

If there is an exposure of injury to your employees under the U.S. Longshoremen's and Harbor Workers' Compensation Act, the Jones Act, or under laws, regulations, or statutes applicable to maritime employees, coverage must be included for such injuries or claims.

7-1.06D Liability Insurance

7-1.06D(1) General

Carry General Liability and Umbrella or Excess Liability Insurance covering all operations by or on behalf of you providing insurance for bodily injury liability and property damage liability for the following limits and including coverage for:

1. Premises, operations and mobile equipment
2. Products and completed operations
3. Broad form property damage (including completed operations)
4. Explosion, collapse, and underground hazards
5. Personal injury
6. Contractual liability

7-1.06D(2) Liability Limits/Additional Insureds

Refer to the *Agreement* of these special provisions

Additional insured coverage must be provided by a policy provision or by an endorsement providing coverage at least as broad as *Additional Insured* (Form B) endorsement form CG 2010, as published by the Insurance Services Office (ISO), or other form designated by the Department.

7-1.06D(3) Contractor's Insurance Policy is Primary

The policy must stipulate that the insurance afforded the additional insureds applies as primary insurance. Any other insurance or self-insurance maintained by the State is excess only and must not be called upon to contribute with this insurance.

7-1.06E Automobile Liability Insurance

Comply with requirements in the *Agreement* of these special provisions

7-1.06F Policy Forms, Endorsements, and Certificates

Provide your General Liability Insurance under Commercial General Liability policy form no. CG0001 as published by the Insurance Services Office (ISO) or under a policy form at least as broad as policy form no. CG0001.

7-1.06G NOT USED

7-1.06H Enforcement

The Department may assure your compliance with your insurance obligations. Ten days before an insurance policy lapses or is canceled during the Contract period you must submit to the Department evidence of renewal or replacement of the policy.

If you fail to maintain any required insurance coverage, the Department may maintain this coverage and withhold or charge the expense to you or terminate your control of the work.

You are not relieved of your duties and responsibilities to indemnify, defend, and hold harmless the State, its officers, agents, and employees by the Department's acceptance of insurance policies and certificates.

Minimum insurance coverage amounts do not relieve you for liability in excess of such coverage, nor do they preclude the State from taking other actions available to it, including the withholding of funds under this Contract.

7-1.06I Self-Insurance

Comply with the *Agreement* of these special provisions

Replace Section 7-1.07 with:

7-1.07 LEGAL ACTIONS AGAINST THE DEPARTMENT

7-1.07A General

If legal action is brought against the Department over compliance with a State or federal law, rule, or regulation applicable to highway work, then:

1. If the Department in complying with a court order prohibits you from performing work, the resulting delay is a suspension related to your performance, unless the Department terminates the Contract.
2. If a court order other than an order to show cause or the final judgment in the action prohibits the Department from requiring you to perform work, the Department may delete the prohibited work or terminate the Contract.

7-1.07B Seal Coat Claims

This section applies to seal coat projects. Pay for claims for personal property damage caused by screening and bituminous binder. Seal coat claims are limited to:

1. 10 percent of the total bid
2. Damage occurring between the 1st day of screening spreading and 4 days after the last day of screening spreading for each seal coat location

Within 30 days of the last screening spreading, do the following:

1. Process and resolve all claims reported or submitted to you by the public as follows:
 - 1.1. Within 3 business days of receipt of a claim, submit to the Department a copy of the claim, a written analysis of the claim, and a statement indicating whether or not you will pay the claim. If you reject a claim, provide the reasons for rejection in writing.
 - 1.2. If the claimant becomes dissatisfied with your handling of the claim, immediately refer the claimant to the local district claims office for assistance in resolving the claim.
2. Submit to the Department evidence of your paid claims.

All claims presented to the Department, any district claims office, or the State Board of Control (Govt Code § 900 et seq.) are processed and resolved by the Department as follows:

1. The claims are processed as formal government claims subject to all laws and policies and are resolved as the Department determines including referring the claim to you for handling.
2. If the Department or the State Board of Control approves settlement of a claim or is ordered to pay pursuant to a court order, the claim is paid from funds withheld from you.
3. Within 3 business days of the Department's determination that you are responsible for resolving the claim, the Department sends a copy of the claim to you for resolution or notifies you of the Department's decision to resolve the claim.

The Department withholds an amount not to exceed 5 percent of the total bid to resolve all claims. The amount is held no longer than 60 days following the last spreading of screenings so that the Department has ample time to resolve any pending claims. After 60 days, any remaining amount withheld is returned to you.

If no withheld funds remain or have been returned, the Department may pay any claims and seek reimbursement from you through an offset or any other legal means. Any reimbursement or offset to be recovered from you, including all other paid claims, is limited to 10 percent of the total bid.

Section 7-1.07B does not limit your obligation to defend and indemnify the Department.

7-1.07C Claims

This section applies to non-seal coat projects which involve asphalt concrete paving. Pay for claims for personal property damage caused by your work. Claims are limited to:

1. 10 percent of the total bid

Within 30 days of the last working day placement of hot mix asphalt, do the following:

1. Process and resolve all claims reported or submitted to you by the public as follows:
 - 1.1. Within 3 business days of receipt of a claim, submit to the Department a copy of the claim, a written analysis of the claim, and a statement indicating whether or not you will pay the claim. If you reject a claim, provide the reasons for rejection in writing.
 - 1.2. If the claimant becomes dissatisfied with your handling of the claim, immediately refer the claimant to the local district claims office for assistance in resolving the claim.
2. Submit to the Department evidence of your paid claims.

All claims presented to the Department, (Govt Code § 900 et seq.) are processed and resolved by the Department as follows:

1. The claims are processed as formal government claims subject to all laws and policies and are resolved as the Department determines including referring the claim to you for handling.
2. If the Department approves settlement of a claim or is ordered to pay pursuant to a court order, the claim is paid from funds withheld from you.
3. Within 3 business days of the Department's determination that you are responsible for resolving the claim, the Department sends a copy of the claim to you for resolution or notifies you of the Department's decision to resolve the claim.

The Department withholds an amount not to exceed 5 percent of the total bid to resolve all claims. The amount is held no longer than 60 days following the last working day so that the Department has ample time to resolve any pending claims. After 60 days, any remaining amount withheld is returned to you.

If no withheld funds remain or have been returned, the Department may pay any claims and seek reimbursement from you through an offset or any other legal means. Any reimbursement or offset to be recovered from you, including all other paid claims, is limited to 10 percent of the total bid.

Section 7-1.07C does not limit your obligation to defend and indemnify the Department.

Add between the 1st and 2nd paragraphs of section 7-1.11A:

Comply with 46 CFR 381.7(a)–(b).

8 PROSECUTION AND PROGRESS

Replace the headings and paragraphs in Section 8 with:

8-1.01 GENERAL

Section 8 includes specifications related to prosecuting the Contract and work progress.

8-1.01A Work Hours

Perform all work on working days during daytime.

Project: Job Order Contract General Engineering
Contract Numbers: 23-19-J 23-20-J 23-21-J 23-22-J

You may request approval to work on a holiday or on a non-working day. If, pursuant to such request, the Engineer authorizes you to work on a holiday or on a non-working day, you pay the actual cost incurred by the Department to perform all inspection, surveying, testing, and all other project-related work by the Department on such holiday or non-working day. Such payment will be deducted from monies due or which may become due to the Contractor.

Plan work so that all construction operations performed each day, including cleanup of the project site, establishment of appropriate traffic control and any other work necessary for the safety of the public shall be completed within the daytime hours.

Do not perform work during nighttime unless approved by the Engineer

Request approval to work during nighttime in writing and include the appropriate traffic control plan(s) and work plan(s) which clearly identify all provisions for illuminating all portions of the work site, including any flagging operations.

If you fail to complete work during the daytime hours, the Engineer may stop all work upon the onset of nighttime and order you to perform any and all work the Engineer deems necessary to ensure the safety of the public during the nighttime hours.

You are not entitled to any additional compensation or extension of the contract time as a result of the Engineer stopping the work due to the onset of nighttime.

8-1.02 SCHEDULE

8-1.02A General

Upon completion of all work, the Department returns the withholds associated with section 8-1.02 and makes a payment adjustment for work not performed in the same manner as work-character changes.

8-1.02B Level 1 Critical Path Method Schedule

8-1.02B(1) General

No pay item is provided for Level 1 Critical Path Project Schedule. Payment is considered to be included in the various items of work.

Before or at the preconstruction conference, submit a CPM baseline schedule.

For each schedule, submit:

1. Plotted original, time-scaled network diagram on a sheet at least 8-1/2 by 11 inches with a title block and timeline
2. A electronic copy in PDF (Adobe Acrobat compatible) format via email to the Engineer.

8-1.02B(2) Schedule Format

On each schedule, show:

1. Planned and actual start and completion dates of each work activity, including applicable:
 - 1.1. Submittal development
 - 1.2. Submittal review and acceptance
 - 1.3. Material procurement
 - 1.4. Contract milestones and constraints
 - 1.5. Equipment and plant setup
 - 1.6. Interfaces with outside entities
 - 1.7. Erection and removal of falsework and shoring
 - 1.8. Test periods
 - 1.9. Major traffic stage change
 - 1.10. Final cleanup
2. Order that you propose to prosecute the work
3. Logical links between the time-scaled work activities
4. All controlling activities
5. Legible description of each activity
6. At least 1 predecessor and 1 successor to each activity except for project start and project end milestones
7. Duration of at least 1 working day for each activity
8. Start milestone date as the Contract approval date

8-1.02B(3) Updated Schedule

Submit a monthly updated schedule that includes the status of work completed to date and the work yet to be performed as planned.

You may include changes to updated schedules that do not alter a critical path or extend the scheduled completion date compared to the current schedule. Changes may include:

1. Adding or deleting activities
2. Changing activity constraints
3. Changing durations
4. Changing logic

If any proposed change in planned work would alter the critical path or extend the scheduled completion date, submit a revised schedule within 15 days of the proposed change.

8-1.02C–8-1.02F Reserved

8-1.03 PRECONSTRUCTION CONFERENCE

Attend a preconstruction conference with key personnel, including your assigned representative, at a time and location determined by the Engineer. Submit documents as required before the preconstruction conference.

Be prepared to discuss the topics and documents shown in the following table:

Topic	Document
Potential claim and dispute resolution	Potential claim forms
Contractor's representation	Assignment of Contractor's representative
DBE	Final utilization reports
Equipment	Equipment list
Labor compliance and equal employment opportunity	Job site posters and benefit and payroll reports
Material inspection	Notice of Materials to be Used form
Materials on hand	Request for Payment for Materials on Hand form
Measurements	--
Partnering	--
Quality control	QC plans
Safety	Injury and Illness Prevention Program and job site posters
Schedule	Baseline schedule and Weekly Statement of Working Days form
Subcontracting	Subcontracting Request form
Surveying	Survey Request form
Traffic control	Traffic contingency plan and traffic control plans
Utility work	--
Weight limitations	--
Water pollution control	SWPPP or WPCP
Work restrictions	PLACs
Action submittals	--

8-1.04 START OF JOB SITE ACTIVITIES

8-1.04A General

Provide signed contracts, bonds, and evidence of insurance timely as required.

This section, 8-1.04, "Start of Job Activities," does not modify remedies available to the Department should you fail to provide signed contracts bonds and insurance timely.

Submit a notice 72 hours before starting job site activities. If the project has more than 1 location of work, submit a separate notice for each location.

You may start job site activities before receiving notice of Contract approval if you:

1. Deliver the signed Contract, bonds, and evidence of insurance to the Department
2. Submit 72-hour notice
3. Obtain an encroachment permit from the Department
4. Are authorized by the Department to start
5. Perform work at your own risk
6. Perform work under the Contract

If the Contract is approved, work already performed that complies with the Contract is authorized.

If the Contract is not approved, leave the job site in a neat condition. If a facility has been changed, restore it to its former condition or an equivalent condition. The Department does not pay for the restoration.

Liquidated Damages

Total bid		Liquidated damages per day
From over	To	
\$0	\$60,000	\$1,400
\$60,000	\$200,000	\$2,900
\$200,000	\$500,000	\$3,200
\$500,000	\$1,000,000	\$3,500
\$1,000,000	\$2,000,000	\$4,000
\$2,000,000	\$5,000,000	\$4,800
\$5,000,000	\$10,000,000	\$6,800
\$10,000,000	\$20,000,000	\$10,000
\$20,000,000	\$50,000,000	\$13,500
\$50,000,000	\$100,000,000	\$19,200
\$100,000,000	\$250,000,000	\$25,300

8-1.04B Standard Start

Be prepared to begin work at the project site no later than the 20th business day after award of the Contract by the Department.

The Engineer may issue a notice to proceed as soon as the Contracts, including bonds and insurance certificates, have been approved.

Start work on the day shown in the notice to proceed, unless an early start has been approved.

The Engineer may issue a notice of commencement of contract time if you fail to provide Contracts, including bonds and insurance certificates or other required documents timely.

A notice of commencement of contract time does not authorize you to start work on the project site, but contract time begins to elapse on the date shown in the notice of commencement of contract time.

Complete work before the expiration of

TBD (__) WORKING DAYS

from the date shown in said Notice to Proceed, or in the Notice of Commencement of Contract Time, whichever comes first.

Complete all work, including corrective work and punch list work, prior to the expiration of the allotted working days. Working days continue to accrue until corrective work and punch list work is completed and accepted.

Pay to the County of Fresno the sum of

See Liquidated Damages table above

per day for each and every calendar day's delay in finishing the work, including corrective work and punch list work, in excess of the total number of working days prescribed above.

8-1.04C Long Lead Time Equipment Start

Reserved

8-1.05 TIME

Contract time starts on the day specified in the notice to proceed or in the notice of commencement of contract time as described in section 8-1.04 or on the day you start job site activities, whichever occurs first.

Complete the work within the Contract time.

Meet each specified interim work completion date.

The Engineer issues a *Weekly Statement of Working Days* by the end of the following week.

The *Weekly Statement of Working Days* shows:

1. Working days and non-working days during the reporting week
2. Time adjustments
3. Work completion date computations, including working days remaining
4. Controlling activities

8-1.06 SUSPENSIONS

The Engineer may suspend work wholly or in part due to conditions unsuitable for work progress. Provide for public safety and a smooth and unobstructed passageway through the work zone during the suspension as specified in sections 7-1.03 and 7-1.04. Providing the passageway is force account work. The Department makes a time adjustment for the suspension due to a critical delay.

The Engineer may suspend work wholly or in part due to your failure to (1) fulfill the Engineer's orders, (2) fulfill a Contract part, or (3) perform weather-dependent work when conditions are favorable so that weather-related unsuitable conditions are avoided or do not occur. The Department may provide for a smooth and unobstructed passageway through the work during the suspension and deduct the cost from payments. The Department does not make a time adjustment for the suspension.

Upon the Engineer's order of suspension, suspend work immediately. Resume work when ordered.

8-1.07 DELAYS

8-1.07A General

To request a delay-related time or payment adjustment, submit an RFI.

8-1.07B Time Adjustments

The Department may make a time adjustment for a critical delay. The Engineer uses information from the schedule to evaluate requests for time adjustments.

To request an adjustment, submit a revised schedule showing the delay's effect on the controlling activity. If the delay has:

1. Occurred, submit records of the dates and what work was performed during the delayed activity
2. Not occurred, submit the expected dates or duration of the delayed activity

Update the schedule to the last working day before the start of the delay if ordered.

8-1.07C Not Used

8-1.08–8-1.09 RESERVED

8-1.10 LIQUIDATED DAMAGES

8-1.10A General

The Department specifies liquidated damages (Pub Cont Code § 10226). Liquidated damages, if any, accrue starting on the 1st day after the expiration of the working days through the day of Contract acceptance except as specified in sections 8-1.10B and 8-1.10C.

The Department withholds liquidated damages before the accrual date if the anticipated liquidated damages may exceed the value of the remaining work.

Liquidated damages are specified in section 8-1.04.

8-1.10B Failure to Complete Work Parts within Specified Times

The Department may deduct specified damages from payments for each day needed to complete a work part in excess of the time specified for completing the work part.

Damages for untimely completion of work parts may not be equal to the daily amount specified as liquidated damages for the project as a whole, but the Department does not simultaneously assess damages for untimely completion of work parts and for the whole work.

Damages accrue starting the 1st day after a work part exceeds the specified time through the day the specified work part is complete.

8-1.10C Failure to Complete Work Parts by Specified Dates

The Department may deduct specified damages from payments for each day needed to complete a work part in excess of the specified completion date for the work part.

Damages for untimely completion of a work part may not be equal to the daily amount specified as liquidated damages for the project as a whole, but the Department does not simultaneously assess damages for untimely completion of a work part and the whole work.

Damages accrue starting the 1st day after an unmet completion date through the day the work part is complete.

8-1.10D RESERVED

8-1.11–8-1.12 RESERVED

8-1.13 CONTRACTOR'S CONTROL TERMINATION

The Department may terminate your control of the work for failure to do any of the following (Pub Cont Code § 10253):

1. Supply an adequate workforce
2. Supply material as described
3. Pay subcontractors (Pub Cont Code §10262)
4. Prosecute the work as described in the Contract

The Department may also terminate your control for failure to maintain insurance coverage.

For a federal-aid project, the Department may terminate your control of the work for failure to include "FEMA Contract Provisions" in subcontracts.

The Department gives notice to you and your surety at least 5 business days before terminating control. The notice describes the failures and the time allowed to remedy the failures. If failures are not remedied within the time provided, the Department takes control of the work.

The Department may complete the work if the Department terminates the Contractor's control or you abandon the project (Pub Cont Code § 10255). The Department determines the unpaid balance under Pub Cont Code § 10258 and the Contract.

At any time before final payment of all claims, the Department may convert a Contractor's control termination to a Contract termination.

8-1.14 CONTRACT TERMINATION

8-1.14A General

The Director may terminate the Contract if it serves the State's best interest. The Department issues you a written notice, implements the termination, and pays you.

8-1.14B Relief from Responsibility for Work

Upon receiving a termination notice:

1. Stop work
2. Notify subcontractors and suppliers of the Contract termination and stop Contract-related work
3. Perform the Engineer-ordered work to secure the job site for termination

4. Remove equipment
5. Subject to the Engineer's authorization, settle termination-related claims and liabilities involving subcontractors and suppliers; assign to the Department the rights, titles, or interests held by you with respect to these parties

8-1.14C Responsibility for Materials

Upon receiving a termination notice, protect unused material until:

1. You submit an inventory of materials already produced, purchased, or ordered but not yet used; include the location of the material.
2. The Engineer identifies materials that will be retained by the Department. Submit bills of sales or other records of material title.
3. The Engineer confirms that unused materials paid by progress payment and materials furnished by the State have been delivered and stored as ordered.
4. The titles are transferred for materials purchased by the Department.

Dispose of materials that will not be retained by the Department.

8-1.14D Contract Acceptance after Termination

The Engineer recommends Contract acceptance after determining the completion of:

1. Work ordered to be completed before termination
2. Other work ordered to secure the project before termination
3. Material delivery and title transfer

The Department pays you according to the Job Order Price.

8-1.14E Payment Adjustment for Termination

If the Department issues a termination notice, the Engineer determines the payment for termination based on the following:

1. Direct cost for the work:
 - 1.1. Including:
 - 1.1.1. Mobilization.
 - 1.1.2. Demobilization.
 - 1.1.3. Securing the job site for termination.
 - 1.1.4. Losses from the sale of materials.
 - 1.2. Not including:
 - 1.2.1. Cost of materials you keep.
 - 1.2.2. Profit realized from the sale of materials.
 - 1.2.3. Cost of material damaged by:
 - 1.2.3.1. Act of God.
 - 1.2.3.2. Act of a public enemy.
 - 1.2.3.3. Fire.
 - 1.2.3.4. Flood.
 - 1.2.3.5. Governor-declared state of emergency.
 - 1.2.3.6. Landslide.
 - 1.2.3.7. Tsunami.
 - 1.2.4. Other credits.
2. Cost of remedial work, as estimated by the Engineer, is not reimbursed.
3. Allowance for profit not to exceed 4 percent of the cost of the work. Prove a likelihood of having made a profit had the Contract not been terminated.
4. Material handling costs for material returned to the vendor or disposed of as ordered.
5. Costs in determining the payment adjustment due to the termination, excluding attorney fees and litigation costs.

Termination of the Contract does not relieve the surety of its obligation for any just claims arising out of the work performed.

8-1.15–8-1.16 RESERVED

9 NOT USED

10 CONSTRUCTION TASK CATALOG® (ON CD INCORPORATED BY REFERENCE)

11 TECHNICAL SPECIFICATIONS (ON CD INCORPORATED BY REFERENCE)

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.

Compliance with the Davis-Bacon Act

(1) All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.

FEMA CONTRACT PROVISIONS

(2) Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

(3) Additionally, contractors are required to pay wages not less than once a week.

Rights and Remedies

(1) The duties and obligations imposed by the Contract Documents and the rights and remedies available hereunder shall be in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

(2) No action or failure to act by or on behalf of the Owner regarding any deficiency, breach or default in performance by the Contractor under the Contract Documents, shall be deemed or construed to constitute acquiescence of the Owner in connection therewith or with regard to any subsequent deficiency, breach or default in performance by the Contractor; nor shall any such prior act of failure to act by or on behalf of Owner be deemed or construed as a waiver of any rights in favor of Owner regarding any such deficiency, breach or default in performance by the Contractor, regardless of the similarity to the prior incident or circumstance when no action was taken regarding any alleged deficiency, breach or default in performance by the Contractor.

Termination of Convenience

Under circumstances other than those set forth in Section IV of the Agreement governing termination of this Contract for cause, this Contract may be terminated by the County, with no liability to the contractor accruing to the County based solely upon the County's exercise of such right, upon the giving of thirty (30) days advance written notice of an intention to terminate to the contractor. In the event of such termination, the contractor shall cease work on such date as is specified by the County in that notice, and the contractor shall be entitled to payment for all work performed through and including that date. The County and the contractor shall meet and confer in an effort to resolve any and all remaining issues relating to completion of the work, payment to the contractor of any incurred and unpaid costs to which the contractor may claim to be entitled under the Contract, and any other issues pertaining to final resolution of the contractual relationship. In the event of any remaining disputes after the parties have met and conferred, they shall be resolved in accordance with 9-1.23 RESOLUTION OF CONTRACT CLAIMS of the Special Provisions.

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 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

FEMA CONTRACT PROVISIONS

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

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

(1) 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.

(2) 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).

FEMA CONTRACT PROVISIONS

(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
- 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

FEMA CONTRACT PROVISIONS

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.

Federal Forms

Links provided to Caltrans forms at time of publication

- EXHIBIT 16-O Federal-Aid Highway Construction Contractors Annual EEO Report (2018) <https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/lapm/c16/16oe.xlsx>
- EXHIBIT 17-F Final Report-Utilization of Disadvantaged Business Enterprises (DBE) And First-Tier Subcontractors (2023) <https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/lapm/c17/17f.pdf>
- EXHIBIT 17-O Disadvantaged Business Enterprises (DBE) Certification Status Change (2015) <https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/lapm/c17/17o.pdf>
- Exhibit 16-Z1 Monthly DBE Trucking Verification (2018) <https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/lapm/c16/16z1.pdf>
- EXHIBIT 16-B Subcontracting Request (2021) <https://forms.dot.ca.gov/v2Forms/servlet/FormRenderer?fmid=LAPM16B>
- EXHIBIT 9-F: Disadvantaged Business Enterprise (DBE) Running Tally of Payments (2023) <https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/lapm/c09/09fe.xlsx>
- EXHIBIT 9-P: Prompt Payment Certification (2023) <https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/lapm/c09/09pe.xlsx>

EXHIBIT 16-O FEDERAL-AID HIGHWAY CONSTRUCTION CONTRACTORS ANNUAL EEO REPORT

1. MARK APPROPRIATE BLOCK <input type="checkbox"/> Contractor <input type="checkbox"/> Subcontractor	2. COMPANY NAME, CITY, STATE:	3. PROJECT NUMBER:	4. DOLLAR AMOUNT OF CONTRACT:	5. PROJECT LOCATION: (County and State)
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This collection of information is required by law and regulation 23 U.S.C. 140a and 23 CFR Part 230. The OMB control number for this collection is 2125-0019 expiring in March, 2016.

6. WORKFORCE ON FEDERAL-AID AND CONSTRUCTION SITE(S) DURING LAST FULL PAY PERIOD ENDING IN JULY 20__ (INSERT YEAR)

JOB CATEGORIES	TABLE A																TABLE B					
	TOTAL EMPLOYED		TOTAL RACIAL/ ETHNIC MINORITY		BLACK or AFRICAN AMERICAN		HISPANIC OR LATINO		AMERICAN INDIAN OR ALASKA NATIVE		ASIAN		NATIVE HAWAIIAN OR OTHER PACIFIC ISLANDER		TWO OR MORE RACES		WHITE		APPRENTICES		ON THE JOB TRAINEES	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
OFFICIALS	0	0	0	0																		
SUPERVISORS	0	0	0	0																		
FOREMEN/WOMEN	0	0	0	0																		
CLERICAL	0	0	0	0																		
EQUIPMENT OPERATORS	0	0	0	0																		
MECHANICS	0	0	0	0																		
TRUCK DRIVERS	0	0	0	0																		
IRONWORKERS	0	0	0	0																		
CARPENTERS	0	0	0	0																		
CEMENT MASONS	0	0	0	0																		
ELECTRICIANS	0	0	0	0																		
PIPEFITTER/PLUMBERS	0	0	0	0																		
PAINTERS	0	0	0	0																		
LABORERS-SEMI SKILLED	0	0	0	0																		
LABORERS-UNSKILLED	0	0	0	0																		
TOTAL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

TABLE C (Table B data by racial status)																						
APPRENTICES	0	0	0	0																		
OJT TRAINEES	0	0	0	0																		

8. PREPARED BY: (Signature and Title of Contractors Representative)	9. DATE	10. REVIEWED BY: (Signature and Title of State Highway Official)	11. DATE
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Exhibit 17-F: Final Report-Utilization of Disadvantaged Business Enterprises (DBE) and First-Tier Subcontractors

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

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

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

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

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

1. **Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
2. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
3. **Local Agency** - Enter the name of the local or regional agency that is funding the contract.
4. **Contract Acceptance Date** - Enter the date the contract was accepted by the Local Agency.
5. **Contractor/Consultant** - Enter the contractor/consultant's firm name.
6. **Business Address** - Enter the contractor/consultant's business address.
7. **Final Contract Amount** - Enter the total final amount for the contract.
8. **Contract Item Number** - Enter contract item for work, services, or materials supplied provided. Not applicable for consultant contracts.
9. **Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials provided. Indicate all work to be performed by DBEs including work performed by the prime contractor/consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
10. **Company Name and Business Address** - Enter the name, address, and phone number of all subcontracted contractors/consultants. Also, enter the prime contractor/consultant's name and phone number, if the prime is a DBE.
11. **DBE Certification Number** - Enter the DBE's Certification Identification Number. Leave blank if subcontractor is not a DBE.
12. **Contract Payments** - Enter the subcontracted dollar amount of the work performed or service provided. Include the prime contractor/consultant if the prime is a DBE. If the materials or supplies are obtained from a DBE manufacturer, count 100% of the cost of the materials or supplies toward DBE goals. If the materials or supplies are purchased from a DBE regular dealer/supplier, count 60% of the cost of the materials or supplies toward DBE goals. The Non-DBE column is used to enter the dollar value of work performed by firms that are not certified DBE or for work after a DBE becomes decertified.
13. **Date Work Completed** - Enter the date the subcontractor/subconsultant's item work was completed.
14. **Date of Final Payment** - Enter the date when the prime contractor/consultant made the final payment to the subcontractor/subconsultant for the portion of work listed as being completed.
15. **Original DBE Commitment Amount** - Enter the "Total Claimed DBE Participation Dollars" from Exhibits 15-G or 10-O2 for the contract.
16. **Total** - Enter the sum of the "Contract Payments" Non-DBE and DBE columns.
17. **Contractor/Consultant Representative's Signature** - The person completing the form on behalf of the contractor/consultant's firm must sign their name.
18. **Contractor/Consultant Representative's Name** - Enter the name of the person preparing and signing the form.
19. **Phone** - Enter the area code and telephone number of the person signing the form.
20. **Date** - Enter the date the form is signed by the contractor's preparer.
21. **Local Agency Representative's Signature** - A Local Agency Representative must sign their name to certify that the contracting records and on-site performance of the DBE(s) has been monitored.
22. **Local Agency Representative's Name** - Enter the name of the Local Agency Representative signing the form.
23. **Phone** - Enter the area code and telephone number of the person signing the form.
24. **Date** - Enter the date the form is signed by the Local Agency Representative.

EXHIBIT 17-O DISADVANTAGED BUSINESS ENTERPRISES (DBE) CERTIFICATION STATUS CHANGE

1. Local Agency Contract Number		2. Federal-Aid Project Number		3. Local Agency		4. Contract Completion Date	
5. Contractor/Consultant			6. Business Address			7. Final Contract Amount	
8. Contract Item Number	9. DBE Contact Information	10. DBE Certification Number	11. Amount Paid While Certified	12. Certification/Decertification Date (Letter Attached)	13. Comments		

If there were no changes in the DBE certification of subcontractors/subconsultants, indicate on the form.

I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT					
14. Contractor/Consultant Representative's Signature		15. Contractor/Consultant Representative's Name		16. Phone	17. Date
I CERTIFY THAT THE CONTRACTING RECORDS AND ON-SITE PERFORMANCE OF THE DBE(S) HAS BEEN MONITORED					
18. Local Agency Representative's Signature		19. Local Agency Representative's Name		20. Phone	21. Date

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

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

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

- 1. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 2. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 3. Local Agency** - Enter the name of the local or regional agency that is funding the contract.
- 4. Contract Completion Date** - Enter the date the contract was completed.
- 5. Contractor/Consultant** - Enter the contractor/consultant's firm name.
- 6. Business Address** - Enter the contractor/consultant's business address.
- 7. Final Contract Amount** - Enter the total final amount for the contract.
- 8. Contract Item Number** - Enter contract item for work, services, or materials supplied provided. Not applicable for consultant contracts.
- 9. DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted contractors/consultants.
- 10. DBE Certification Number** - Enter the DBE's Certification Identification Number.
- 11. Amount Paid While Certified** - Enter the actual dollar value of the work performed by those subcontractors/subconsultants during the time period they are certified as a DBE.
- 12. Certification/Decertification Date (Letter Attached)** - Enter either the date of the Decertification Letter sent out by the Office of Business and Economic Opportunity (OBE0) or the date of the Certification Certificate mailed out by OBE0.
- 13. Comments** - If needed, provide any additional information in this section regarding any of the above certification status changes.
- 14. Contractor/Consultant Representative's Signature** - The person completing the form on behalf of the contractor/consultant's firm must sign their name.
- 15. Contractor/Consultant Representative's Name** - Enter the name of the person preparing and signing the form.
- 16. Phone** - Enter the area code and telephone number of the person signing the form.
- 17. Date** - Enter the date the form is signed by the contractor's preparer.
- 18. Local Agency Representative's Signature** - A Local Agency Representative must sign their name to certify that the contracting records and on-site performance of the DBE(s) has been monitored.
- 19. Local Agency Representative's Name** - Enter the name of the Local Agency Representative signing the form.
- 20. Phone** - Enter the area code and telephone number of the person signing the form.
- 21. Date** - Enter the date the form is signed by the Local Agency Representative.

State of California-Department of Transportation

Exhibit 16-Z1 Monthly DBE Trucking Verification

Contract No.			Month			Year	
Truck Owner	DBE Cert No.	Company Name and Address	Truck No.	California Highway Patrol CA. No.	Commission of Amount Of Amount Paid*	Date Paid	Lease Arrangement (if applicable)
					\$		Lease Agreement with NON-DBE <input type="checkbox"/> with DBE <input type="checkbox"/>
					\$		Lease Agreement with NON-DBE <input type="checkbox"/> with DBE <input type="checkbox"/>
					\$		Lease Agreement with NON-DBE <input type="checkbox"/> with DBE <input type="checkbox"/>
					\$		Lease Agreement with NON-DBE <input type="checkbox"/> with DBE <input type="checkbox"/>
					\$		Lease Agreement with NON-DBE <input type="checkbox"/> with DBE <input type="checkbox"/>
					\$		Lease Agreement with NON-DBE <input type="checkbox"/> with DBE <input type="checkbox"/>
					\$		Lease Agreement with NON-DBE <input type="checkbox"/> with DBE <input type="checkbox"/>
					\$		Lease Agreement with NON-DBE <input type="checkbox"/> with DBE <input type="checkbox"/>
					\$		Lease Agreement with NON-DBE <input type="checkbox"/> with DBE <input type="checkbox"/>
Total Amount Paid					\$		

Prime Contractor	Business Address	Business Phone No.
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*Upon Request all Lease Agreements Shall be made available, in accordance with the special Provisions

I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT

Contractor Representative Signature	Title	Date
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MONTHLY DBE TRUCKING VERIFICATION

The top of Form CEM-2404(F) contains boxes to put in the Contract Number, the Month of the reporting period and the Year of the reporting period.

The Form CEM-2404(F) has a column to enter the name of the Truck Owner, the DBE Cert. No. (if DBE certified) and the Name and Address of the trucking company. The Form CEM-2404(F) also requires the Truck No. and the California Highway Patrol CA No.

Form CEM-2404(F) is to be submitted prior to the 15th of each month and must show the dollar amount paid to the DBE trucking company(s) for trucking work performed by DBE certified trucks and for any fees or commissions of non DBE trucks utilized each month on the project. The amount paid to each trucking company is to be entered in the column called "Commission or Amount Paid," in accordance with the Special Provisions Section 5-1.X.

Payment information is derived using the following:

- 1.) 100% for the trucking services provided by the DBE using trucks it owns, operates and insures.
- 2.) 100% for the trucking services provided by the trucks leased from other DBE firms.
- 3.) The fee or commission paid to non DBEs for the lease of trucks. The Prime does not receive 100% credit for these services because they are not provided by a DBE company.

The total dollar figure of this column is to be placed in the box labeled "Total Amount Paid." The column "Date Paid" requires a date that each trucking company is paid for services rendered. The next column contains information that must be completed if a lease arrangement is applicable. Located at the bottom of the form is a space to put the name of the "Prime Contractor," their "Business Address" and their "Business Phone No."

At the bottom of the form there is a space for the Contractor or designee "Contractor Representative's Signature, Title and Date" certifying that the information provided on the form is complete and correct.

DLA SUBCONTRACTING REQUEST

LAPM 16-B (NEW 12/2021)

REQUEST NUMBER

CONTRACTOR NAME				COUNTY	ROUTE			
BUSINESS ADDRESS					CONTRACT NUMBER			
CITY AND STATE				ZIP CODE	FEDERAL-AID PROJECT NUMBER <i>(from special provisions)</i>			
SUBCONTRACTORS (Name, Business Address, Phone)	CA STATE CONTRACTOR LICENSE NUMBER	PUBLIC WORKS CONTRACTOR REGISTRATION NUMBER	BID ITEM NUMBER(S) (1 per line)	PERCENTAGE OF BID ITEM SUBCONTRACTED	CHECK IF (See Categories Below)		DESCRIBE WORK WHEN LESS THAN 100% OF WORK IS SUBCONTRACTED	DOLLAR AMOUNT BASED ON BID AMOUNT
					1	2		

Categories: 1. Listed Under Fair Practices Act 2. Certified Disadvantaged Business Enterprise/Disabled Veteran Business Enterprise

I certify that:

- The specifications for labor set forth in the contract apply to the subcontracted work.
- If applicable (federal-aid projects only), Form FHWA-1273 has been inserted in the subcontracts and will be incorporated in any lower-tier subcontract.
- Written contracts have been executed for the subcontracted work noted above.

CONTRACTOR'S SIGNATURE	DATE
------------------------	------

This section is to be completed by the resident engineer.

1. Total of bid items		\$	
2. Bid items previously subcontracted		\$	
3. Bid items subcontracted (this request)		\$	
4. Total of lines 2 and 3		\$	
5. Maximum amount of work allowed to be subcontracted (multiply line 1 by %)		\$	
6. Minimum amount prime contractor must perform with own forces (multiply line 1 by %)		\$	

APPROVED

RESIDENT ENGINEER'S SIGNATURE	DATE
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Copy Distribution: Original - Contractor Copy - Resident Engineer

DLA SUBCONTRACTING REQUEST

LAPM 16-B (NEW 12/2021)

INSTRUCTIONS

All first-tier subcontractors must be included on a subcontracting request.

Before subcontracting work starts, the contractor will submit an original Form LAPM 16-B according to the *Standard Specifications*.

- Ensure all subcontractors are:
 1. Listed on the subcontractor list at the time of bid, per the Subletting and Subcontracting Fair Practice Act; OR
 2. All 1st tier subcontractors regardless of dollar value.

When an entire item is subcontracted, show the contractor's bid price.

When a portion of an item is subcontracted, describe the portion and show the percentage of the bid item and value.

- Compare line 5 to line 4. If line 5 is greater than line 4 the request can be approved.
- After approval, the resident engineer returns the original to the contractor and completes the remaining distribution as listed on the bottom of the form.
- Labor Compliance Officer to review subcontractor licensing and registration.
- Labor Compliance Officer completes PWC-100 form on California Department of Industrial Relations site for subcontractors that were not required to be listed at time of bid on the Subcontractor List form.

**THIS FORM IS NOT TO BE USED FOR SUBSTITUTIONS OF LISTED
SUBCONTRACTORS OR DISADVANTAGED BUSINESS ENTERPRISE.**

EXHIBIT 9-P: PROMPT PAYMENT CERTIFICATION

Section 7108.5 of the California Business and Professions Code (CBPC) requires a prime contractor or subcontractor (i.e. builders) to pay any subcontractor not later than seven (7) days after receipt of each progress payment received or final retention payment. Section 3321 of the California Civil Code (CCC) requires prime design professionals (prime consultants directly in contract with a public agency) to pay any subconsultant not later than fifteen (15) days after receipt of each progress payment or final retention payment. The payment cannot be delayed because of disagreements on other contracts. Any delay or postponement of payment among the parties may take place only for good cause with the agency's prior written approval. This requirement applies to both DBE and non-DBE subcontractors.

1. CONTRACT INFORMATION

(1) Prime Contractor/Consultant	(2) Local Agency	(3) Federal Project Number	(4) Local Contract Number	(5) Total Contract Award Amt (\$)	(6) Total DBE Commitment Amt (\$)	(7) DBE Commitment (%)	(8) DBE Contract Goal (%)	(9) Reporting Period (MM/YYYY)

2. PAYMENT INFORMATION

(10) Subcontractor/Subconsultant Name	(11) DBE Cert. Number	(12) Subcontract Type	(13) Date Payment Received by Prime	(14) Date of Prime Payment to Sub	(15) Amount of Payment (\$)	(16) Amount Paid To Sub to Date (\$)	(17) Total Committed to This Subcontractor (\$)	(18) Promptly Paid? (Y/N)	(19) Incremental Retainage Paid? (Y/N)	(20) Comments or Reason for Non-Payment/Non-Prompt Payment, including Payment of incremental Retainage *
Totals					\$0	\$0	\$0			

List all first-tier subcontractors/subconsultants, whether or not the firms were originally listed in Exhibit 10-O2 or 15-G as a DBE commitment. If the actual DBE utilization was different than that approved at the time of award, provide comments in box (20). All payments reported, including payments to contractor/consultant, are for the date listed.

* Only reasons based on dispute on subcontractor or supplier noncompliance may be accepted.

3. CERTIFICATION

The prime contractor or consultant hereby certifies that the foregoing Prompt Payment Certification Form is true and correct.

(21) Prime Contractor Manager's Signature

(22) Date

(25) Prime Contractor Manager's Name

(26) Phone

Local Agency certifies that all information in this form is complete and verified.

(23) Local Agency Representative's Signature

(24) Date

(27) Local Agency Representative 's Name

(28) Phone

Draft Exhibit 9-P Instructions

I. Purpose

Section 7108.5 of the California Business and Professions Code (CBPC) requires a prime contractor or subcontractor (i.e. builders) to pay any subcontractor not later than seven (7) days after receipt of each progress payment received or final retention payment. Section 3321 of the California Civil Code (CCC) requires prime design professionals (prime consultants directly in contract with a public agency) to pay any subconsultant not later than fifteen (15) days after receipt of each progress payment or final retention payment. The payment cannot be delayed because of disagreements on other contracts. Any delay or postponement of payment among the parties may take place only for good cause with the agency's prior written approval. This requirement applies to both DBE and non-DBE subcontractors.

II. Instruction

For projects that are awarded on or after September 1, 2023:

The prime contractor or consultant must submit Exhibit 9-P to the LPA administering the contract by the 15th of the month following the month of any payment(s). If the prime contractor or consultant does not make any payments to subcontractors, suppliers, and/or manufactures they must report "no payments were made to subs this month" and write this visibly and legibly on Exhibit 9-P.

A failure to complete the Prompt Pay reporting requirement may result in the withholding of the prime contractor or consultant's next progress payment and/or final payment. Additionally, Caltrans may require the LPA to issue a corrective action plan and /or it may require the LPA to suspend the contract in whole or in part if the prime or consultant does not make up the shortfall.

LPA must verify all Exhibit 9-P information, monitor compliance with prompt payment requirements for DBE and non-DBE firms, and address any shortfalls to the DBE commitment and prompt payment issues until the end of the project. The LPA must email a copy of Exhibit 9-P to DBE.Forms@dot.ca.gov before the end of the month after receiving the Exhibit 9-P from prime contractor or consultant.

1. CONTRACT INFORMATION

- (1) **Prime Contractor/Consultant:** Enter the business name for the prime contractor/consultant.
- (2) **Local Agency:** Enter the local agency name.
- (3) **Federal Aid Project Number:** Enter the 7-digit federal-aid project number of the lead project on the contract.
E.g. 5002(123) is a valid Federal-Aid Project Number.
- (4) **Local Contract Number:** Enter the Local Agency contract number or identifier.
- (5) **Total Contract Award Amount (\$):** Enter the total contract award amount of the project.
- (6) **Total Contract DBE Commitment Amount (\$):** Enter the total DBE commitment award amount of the project as it appears on Exhibit 10-O2 or Exhibit 15-G.
- (7) **DBE Commitment (%):** Enter percentage of the Prime contract committed to DBE firms as it appears on Exhibit 10-O2 or Exhibit 15-G.
- (8) **DBE Contract Goal (%):** Enter the contract DBE goal percentage as it appears on the project advertisement.

- (9) **Reporting Period (Month-Year):** Indicate the month and year of payments being reported.

2. PAYMENT INFORMATION

- (10) **Subcontractor/Subconsultant name:** Enter subcontractor/consultant firm's name.
- (11) **DBE Cert. Number:** List the DBE's certification number as listed in the California Unified Certification Program (CUCP) database.
- (12) **Subcontract Type:** Enter the most appropriate Subcontractor's contract type.

- (13) **Date of Payment Received by Prime:** Enter date when a check is issued by LPA to the prime contractor/consultant for work performed by the contractor/consultant.
- (14) **Date of Prime Payment to Sub:** Enter date when a check is issued by prime to the subcontractor/subconsultant for work performed by the subcontractor/subconsultant.
- (15) **Amount of Payment (\$):** Enter the total amount paid to the subcontractor this period.
- (16) **Amount Paid to Sub to Date (\$):** Enter the total amount paid to this subcontractor to date. This should be a total of past payments plus payment for the current work just invoiced to the Local Agency.
- (17) **Total amount committed to this subcontractor (\$):** Enter the total amount committed to this subcontractor, copy the information from the agency signed Exhibit 10-O2 or 15-G.
- (18) **Promptly Paid? (Y/N):** Enter "Y" if payment was made in accordance with the contract. Enter "N" if it's in dispute. Must provide comments regarding any dispute of payment.
- (19) **Incremental Retainage Paid? (Y/N):** Enter "Y" if this payment was a retainage payment. Enter "N" if this was a progress or final payment.
- (20) **Comments or Reason for Non-Payment/Non-Prompt Payment, including Payment of Incremental Retainage *:** Only reasons based on dispute with subcontractor or supplier noncompliance may be accepted. Add appropriate notes if a DBE subcontract was terminated, a DBE subcontract was added, if change orders impacted the DBE's payments (include good faith efforts the prime contractor/consultant implemented), if task orders weren't issued, etc.

3. CERTIFICATION

- (21) **Prime Contractor Manager's Signature:** Self explanatory
- (22) **Date:** Provide the date Prime Contractor Manager signed this form.
- (23) **Local Agency Presentative's Signature:** Self explanatory.
- (24) **Date:** Provide the date Local Agency Presentative signed this form.
- (25) **Prime Contractor Manager's Name:** Self explanatory.
- (26) **Phone:** Self explanatory
- (27) **Local Agency Presentative's Name:** Self explanatory.
- (28) **Phone:** Self explanatory

Project Details

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).

SAMPLE SUBCONTRACTOR FORM

The following named subcontractor(s) will perform with labor, or otherwise render services to the general contractor in or about the construction of the work or improvement in an amount in excess of **one-half of one percent of the total bid presented herewith or \$10,000, whichever is greater**. Please fill out as completely as possible when submitting your bid. Use subcontractor's business name style as registered with the License Board. Each listed subcontractor's name, location of business and description of work, and both their contractor's license number and public works contractor registration number, issued pursuant to Section 1725.5 of the Labor Code, are REQUIRED, by Section 4104 of the California Public Contract Code, to be submitted prior to bid opening. (The "location of business" must specify the city in which the subcontractor's business is located, and the state if other than California.) All other requested information shall be submitted, either with the bid or within 24 hours after bid opening.

Please fill out as completely as possible when submitting your bid. Use subcontractor's business name style as registered with the License Board.

FAILURE TO LIST SUBCONTRACTORS AS DIRECTED MAY RENDER THE BID NON-RESPONSIVE, OR MAY RESULT IN ASSESSMENT OF A PENALTY AGAINST THE BIDDER IN ACCORDANCE WITH SECTION 4110 OF THE CALIFORNIA PUBLIC CONTRACT CODE.

<p>SUBCONTRACTOR: _____</p> <p>Business Address: _____</p> <p>Class ____ License No. _____ DIR Registration No _____</p> <p>Item No. or Description of Work: _____</p> <p>Dollar Amount _____ OR Percentage of Total Bid _____</p> <p>Email Address: _____</p>
<p>SUBCONTRACTOR: _____</p> <p>Business Address: _____</p> <p>Class ____ License No. _____ DIR Registration No _____</p> <p>Item No. or Description of Work: _____</p> <p>Dollar Amount _____ OR Percentage of Total Bid _____</p> <p>Email Address: _____</p>
<p>SUBCONTRACTOR: _____</p> <p>Business Address: _____</p> <p>Class ____ License No. _____ DIR Registration No _____</p> <p>Item No. or Description of Work: _____</p> <p>Dollar Amount _____ OR Percentage of Total Bid _____</p> <p>Email Address: _____</p>

<p>SUBCONTRACTOR: _____</p> <p>Business Address: _____</p> <p>Class ____ License No. _____ DIR Registration No _____</p> <p>Item No. or Description of Work: _____</p> <p>Dollar Amount _____ OR Percentage of Total Bid _____</p> <p>Email Address: _____</p>
<p>SUBCONTRACTOR: _____</p> <p>Business Address: _____</p> <p>Class ____ License No. _____ DIR Registration No _____</p> <p>Item No. or Description of Work: _____</p> <p>Dollar Amount _____ OR Percentage of Total Bid _____</p> <p>Email Address: _____</p>
<p>SUBCONTRACTOR: _____</p> <p>Business Address: _____</p> <p>Class ____ License No. _____ DIR Registration No _____</p> <p>Item No. or Description of Work: _____</p> <p>Dollar Amount _____ OR Percentage of Total Bid _____</p> <p>Email Address: _____</p>
<p>SUBCONTRACTOR: _____</p> <p>Business Address: _____</p> <p>Class ____ License No. _____ DIR Registration No _____</p> <p>Item No. or Description of Work: _____</p> <p>Dollar Amount _____ OR Percentage of Total Bid _____</p> <p>Email Address: _____</p>
<p>SUBCONTRACTOR: _____</p> <p>Business Address: _____</p> <p>Class ____ License No. _____ DIR Registration No _____</p> <p>Item No. or Description of Work: _____</p> <p>Dollar Amount _____ OR Percentage of Total Bid _____</p> <p>Email Address: _____</p>

(This guaranty shall be executed by the successful bidder in accordance with instructions in the special provisions. The bidder may execute the guaranty on this page at the time of submitting a proposal for each job order.

G U A R A N T Y

To the Owner: County of Fresno

CONTRACT NUMBER 23-19-J 23-20-J 23-21-J 23-22-J

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

ALL WORK ASSOCIATED WITH JOB ORDER NUMBER: _____

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 the plans and specifications, due to any of the above causes, all within twelve (12) months after date on which 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.

Name (Printed): _____

Signature: _____

Title: _____

Date: _____

Contractor: _____

BID BOOK

GENERAL ENGINEERING JOB ORDER CONTRACT

BUDGET / ACCOUNT: 4510 / 7370



Department of Public Works and Planning

CONTRACT NUMBER 23-19-J 23-20-J 23-21-J 23-22-J

BID BOOK TABLE OF CONTENTS

GENERAL ENGINEERING JOB ORDER CONTRACT
CONTRACT NUMBER 23-19-J 23-20-J 23-21-J 23-22-J

PROPOSAL NUMBER(S)	TITLE
NOT APPLICABLE	INSTRUCTIONS FOR COMPLETING THE BID BOOK
1	PROPOSAL TO THE BOARD OF SUPERVISORS OF THE COUNTY OF FRESNO
2	ADJUSTMENT FACTORS EXAMPLE SCHEDULE OF ADJUSTMENT FACTORS
3	AWARD CRITERIA FIGURE AWARD CRITERIA CALCULATION
4	ADDENDUM ACKNOWLEDGEMENT BID SECURITY BID SIGNATURE
5	NON-COLLUSION DECLARATION
6	PUBLIC CONTRACT CODE SECTION 10285.1 STATEMENT
7	PUBLIC CONTRACT CODE SECTION 10162 QUESTIONNAIRE AND PUBLIC CONTRACT CODE 10232 STATEMENT
8	CERTIFICATION WITH REGARD TO THE PERFORMANCE OF PREVIOUS CONTRACTS OR SUBCONTRACTS SUBJECT TO THE EQUAL OPPORTUNITY CLAUSE AND THE FILING OF REQUIRED REPORTS
9	DEBARMENT AND SUSPENSION CERTIFICATION
10	NONLOBBYING CERTIFICATION FOR FEDERAL-AID CONTRACTS
11	DISCLOSURE OF LOBBYING ACTIVITIES

INSTRUCTIONS FOR COMPLETING THE BID BOOK FOR FEDERAL AID PROJECTS

General

Complete forms in the *Bid* book.

Submit an electronic bid online at <http://www.BidExpress.com> or submit a hardcopy bid:

1. Under sealed cover addressed to the Department and labeled with the name of the bidder, the name of the project and the statement 'Do Not Open Until The Time Of Bid Opening.'
2. Marked as a bid or bid bond
3. Identifying the contract number and the bid opening date

Certain bid forms must be submitted with the bid and properly executed.

Certain other forms and information must be submitted either with the bid or within the prescribed period after bid opening as specified elsewhere in these special provisions.

Failure to submit the forms and information as specified results in a nonresponsive bid.

If an agent other than the authorized corporation officer or a partnership member signs the bid, file a Power of Attorney with the Department either before opening bids or with the bid. Otherwise, the bid may be nonresponsive.

Bid Item List and Bid Comparison

Submit a bid based on the bid item quantities the Department shows on the Bid Item List. Bids will be evaluated and the low bidder determined as indicated in the *Notice to Bidders*.

Bid Document Completion

Proposal items are identified by title and by the word "Proposal" followed by the number assigned to the proposal item in question. Proposal items are included in the *Bid Book*.

Proposal to the Board of Supervisors of Fresno County

Provided for information.

Adjustment Factors and Award Criteria Figure Calculation

One or more sheet(s) or lists upon which the bidder completes the bid.

Fill out completely including an Adjustment Factor and weighted Adjustment Factor for Normal Working Hours and Other Than Normal Working Hours and the Award Criteria Figure.

Do not make any additions such as "plus tax", "plus freight", or conditions such as "less 2% if paid by 15th".

Use ink or typewriter for paper bids.

Addendum Acknowledgment

Acknowledge Addenda

Bid Security

Submit one of the following forms of bidder's security equal to at least \$25,000.00:

- Cash
- Cashier's check
- Certified check
- Signed bidder's bond by an admitted surety insurer

Contract Number 23-19-J 23-20-J 23-21-J 23-22-J

Indicate type of bid security provided.

- Cash – Acceptable but not recommended. Cash is deposited in a clearing account and is returned to bidders by County warrant. This process may take several weeks.
- Cashier's or Certified Checks. This type of security is held until the bid is no longer under consideration. If submitted by a potential awardee, they will be returned when the contract is fully executed by the bidder and bonds and insurance have been approved.
- Bid Bonds - Must be signed by the bidder and by the attorney-in-fact for the bonding company. Provide notarized signature of attorney-in-fact accompanied by bonding company's affidavit authorizing attorney-in-fact to execute bonds. An unsigned bid bond will be cause for rejection.

Bid Signature

Provide contractor's license information.

State business name and if business is a:

- Corporation - list officers
- Partnership - list partners
- Joint Venture - list members; if members are corporations or partnerships, list their officers or partners.
- Individual - list owner's name and firm name style

Signature of Bidder - the following lists types of companies and corresponding authorized signers.

- Corporation - by an officer
- Partnership - by a partner
- Joint Venture - by a member
- Individual - by the owner

If signature is by a Branch Manager, Estimator, Agent, etc., the bid must be accompanied by a power of attorney authorizing the individual to sign the bid in question or to sign bids more generally, otherwise the bid may be rejected.

- Business Address - Firm's Street Address
- Mailing Address - P.O. Box or Street Address
- Complete, sign, and return with bid.

Non-Collusion Declaration

Must be completed, signed, and returned with bid.

Public Contract Code Section 10285.1 Statement

Select "has" or "has not" in accordance with instructions on form, return with completed for with bid. Note that signing the bid constitutes signing this statement.

Public Contract Code Section 10162 Questionnaire and Public Contract Code 10232 Statement

Select: "yes" or "no" accordance with instructions on form, include explanation if "yes" is selected. Return completed form with bid. Note that signing the bid constitutes signing this questionnaire and statement.

Certification With Regard To The Performance Of Previous Contracts Or Subcontracts Subject To The Equal Opportunity Clause And The Filing Of Required Reports

For a Federal-aid contract, complete, sign, and return with bid. Certification of proposed subcontractors is the responsibility of the Bidder and must be provided to the County upon request.

Contract Number 23-19-J 23-20-J 23-21-J 23-22-J

Debarment And Suspension Certification

For a Federal-aid contract, complete, sign, and return with bid. Certification of subcontractors is the responsibility of the Bidder and must be provided to the County upon request.

Non-lobbying Certification for Federal-Aid Contracts

For a Federal-aid contract, complete, sign, and return with bid.

Disclosure of Lobbying Activities

For a Federal-aid contract, complete, sign, and return with bid.

PROPOSAL TO THE BOARD OF SUPERVISORS OF THE COUNTY OF FRESNO

hereinafter called the Owner

GENERAL ENGINEERING JOB ORDER CONTRACT

The work to be done and referred to herein is in Fresno County, State of California. In case of a discrepancy between words and figures, the words shall prevail. If this proposal shall be accepted and the undersigned shall fail to contract, as aforesaid, and to give the two bonds in the sums to be determined as aforesaid, with surety satisfactory to the Awarding Authority, within ten (10) days after the award of the contract, the Awarding Authority, at its option, may determine that the bidder has abandoned the contract, and thereupon this proposal and the acceptance thereof shall be null and void, and the forfeiture of such security accompanying this proposal shall operate and the same shall be the property of the Owner.

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

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

This Contract is for construction work and related services to be performed at any location within Fresno County. The work of this Contract will be set forth in the Detailed Scopes of Work referenced in the individual Job Orders. The Contractor is required to complete each Detailed Scope of Work for the Job Order Price within the Job Order Completion Time.

The Contractor shall perform all Work required called for in each individual Job Order issued under this Contract using the Construction Task Catalog® and Technical Specifications incorporated herein by reference. Contractor shall perform any or all functions called for in the Contract Documents as specified in individual Job Orders against this Contract for the Unit Prices specified in the Construction Task Catalog® (CTC) multiplied by the following Adjustment Factors, and any appropriate Non Pre-priced work.

BIDDER: _____

Adjustment Factors

The Bidder shall set forth Adjustment Factors in the respective space provided hereinafter. **See example below.** Failure to submit Adjustment Factors for all categories will result in the Proposal being deemed non-responsive. Specify Adjustment Factors to four (4) decimal places. **The Other Than Normal Working Hours Adjustment Factors SHALL be EQUAL to or GREATER THAN the corresponding Normal Working Hours Adjustment Factors.**

The Contractor shall perform the Tasks required by each individual Job Order using the following Adjustment Factors. When submitting Job Order Price Proposals related to specific Job Orders, the Bidder shall utilize one or more of the Adjustment Factors applicable to the Work being performed.

Example

1

 .

2	1	0	2
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(Written in clearly legible words) (Specify to four (4) decimal places in clearly legible figures)

Schedule of Adjustment Factors

1. **Normal Working Hours** (7:00am to 5:00pm Monday through Friday)

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 .

--	--	--	--

(Written in clearly legible words) (Specify to four (4) decimal places in clearly legible figures)

2. **Other Than Normal Working Hours** (5:00pm to 7:00am Monday through Friday, and all day Saturday, Sunday, and Holidays)

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 .

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(Written in clearly legible words) (Specify to four (4) decimal places in clearly legible figures)

3. **Normal Working Hours – Work Over Elevations of 3000 Feet** (7:00am to 5:00pm Monday through Friday)

--

 .

--	--	--	--

(Written in clearly legible words) (Specify to four (4) decimal places in clearly legible figures)

4. **Other Than Normal Working Hours – Work Over Elevations of 3000 Feet** (5:00pm to 7:00am Monday through Friday, and all day Saturday, Sunday, and Holidays)

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 .

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(Written in clearly legible words) (Specify to four (4) decimal places in clearly legible figures)

BIDDER: _____

Award Criteria Figure

Transfer the number on Line 9 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 (Line 2, Line 4, Line 6 and Line 8) are for the purpose of calculating an Award Criteria Figure only. No assurances are made by the County 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 County Reserves The Right To and Will Correct All Arithmetic Errors In the Calculation of the Award Criteria Figure For Correctness.

Instructions To Bidder: Specify lines 1 through 8 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.	Normal Working Hours Adjustment Factor (7:00am to 5:00pm Monday through Friday)	1.	
Line 2.	Multiply Line 1 by 50%		2.
Line 3.	Other Than Normal Working Hours Adjustment Factor (5:00pm to 7:00am Monday through Friday, and all day Saturday, Sunday, and Holidays)	3.	
Line 4.	Multiply Line 3 by 15%		4.
Line 5.	Normal Working Hours Adjustment Factor – Work Over Elevations of 3000 Feet (7:00am to 5:00pm Monday through Friday)	5.	
Line 6.	Multiply Line 5 by 25%		6.
Line 7.	Other Than Normal Working Hours Adjustment Factor – Work Over Elevations of 3000 Feet (5:00pm to 7:00am Monday through Friday, and all day Saturday, Sunday, and Holidays)	7.	
Line 8.	Multiply Line 7 by 10%		8.
Line 9.	Add Lines 2, 4, 6 and 8. This is the Award Criteria Figure:		

Bid Security

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

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

Addenda Acknowledgement

Bidder has and acknowledges the following addenda: _____

Bidder Signature

Business Name _____

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

Business Owners and Officers Names _____

Note: If bidder or other interested person is:

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

Names of Owners and Key Employees _____

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

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

Class _____ Contractor License No. _____ Expires _____

DIR Registration Number _____

Business Address: _____

Zip Code

Mailing Address: _____

Zip Code

Business Phone: (____)_____ Fax Number: (____)_____

Email Address _____

Signature of Bidder: _____ Dated: _____

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

To the Board of Supervisors, County of Fresno:

NONCOLLUSION DECLARATION

TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID*

The undersigned declares:

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

_____, the party making the foregoing bid.

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

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____, 2024,

at _____,"
[city] [state]

(Signature)

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

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

PUBLIC CONTRACT CODE

Public Contract Code Section 10285.1 Statement

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

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

Public Contract Code Section 10162 Questionnaire

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

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

Yes _____ No _____

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

Public Contract Code 10232 Statement

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

Note: The above Statement and Questionnaire are part of the Bid. Signing this Bid on the signature portion thereof shall also constitute signature of this Statement and Questionnaire.

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

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

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

(Company)

By: _____

(Title)

Date: _____

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

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

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

DEBARMENT AND SUSPENSION CERTIFICATION

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

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

has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past 3 years;

does not have a proposed debarment pending; and

has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

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

() No Exceptions

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

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

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

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

Company: _____

By: _____

Date: _____

Title: _____

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: _____

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

This disclosure form shall be completed by the reporting entity, whether sub-awardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any 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. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or sub-award recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Sub-awards include but are not limited to subcontracts, sub-grants 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 organizational 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 identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included 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 commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, 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, DC 20503

A G R E E M E N T

THIS AGREEMENT made at Fresno, in Fresno County, California, by and between _____ hereinafter called the Contractor, and the County of Fresno hereinafter called the 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: That the Contractor and the Owner, for the consideration hereinafter named, agree as follows:

ARTICLE I. The Contractor agrees to furnish all labor and materials, including tools, implements, and appliances required, but excluding such materials as are mentioned in the specifications to be furnished by the Owner, and to perform all the work in a good and workmanlike manner, free from any and all liens and claims of mechanics, materialmen, teamsters, subcontractors, artisans, machinists, and laborers required for:

GENERAL ENGINEERING JOB ORDER CONTRACT

CONTRACT NUMBERS 23-19-J 23-20-J 23-21-J 23-22-J

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 their authorized representatives, hereinafter "Project Manager", and other contract documents relating thereto.

ARTICLE II. The Contractor and the Owner agree that the Notice to Bidders and Special Provisions, the Wage Scale (Prevailing Wages), the Plans and Drawings, Addenda and Bulletins thereto, and the Proposal (Bid Book) hereto attached, together with this Agreement, form the contract, and they are as fully a part of the contract as if hereto attached or herein repeated.

All portions of the Standard Specifications of the State of California, Department of Transportation, dated 2015, which are not in conflict with this contract shall be deemed a part of the specifications as though fully therein set forth; provided, however, that revisions to the said Standard Specifications shall apply only to the extent, if any, included in the Project Details of these specifications or as otherwise incorporated directly herein. No part of said specifications which is in conflict with any portion of this agreement, or which is not actually descriptive of the work to be done thereunder, or of the manner in which said work is to be executed, shall be considered as any part of this agreement, but shall be utterly null and void.

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 00/100 DOLLARS (\$5000.00) per day; that said liquidated damage was arrived at by a studied estimate of loss to the Owner in the event of a delay considering the following damage items which are extremely difficult or impossible to determine: Additional construction expense resulting from delay of completion including, but not limited

to, engineering, inspection, rental and utilities; provided, however, the Owner may conditionally accept the work and occupy and use the same if there has been such a degree of completion as shall in its opinion render the same safe, fit and convenient for the use for which it is intended and in such cases the Contractor and Surety shall not be charged for liquidated damages for any period subsequent to such conditional acceptance and occupation by the Owner but Owner may assess actual damages caused by failure of total completion during such period. The time during which the Contractor is delayed in said work by the acts or neglects of the Owner or its employees or those under it by contract or otherwise, or by the acts of God which the Contractor could not have reasonably foreseen and provided for, or by storms and inclement weather which delays the work, or by any strikes, boycotts, or like obstructive action by employee or labor organizations, or by any general lockouts or other defensive action by employers, whether general, or by organizations of employers, shall be added to the time for completion as aforesaid.

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

The Contract is an indefinite-quantity contract for construction work and services. There is no Minimum Contract Value of Work Orders that the Contractor is guaranteed the opportunity to perform under this Contract. The Maximum Contract Value is \$5,797,725.

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

1. **Normal Working Hours (7:00am to 5:00pm Monday through Friday)**
2. **Other Than Normal Working Hours (5:00pm to 7:00am Monday through Friday, and all day Saturday, Sunday, and Holidays)**
3. **Normal Working Hours – Elevations Above 3000 Feet (7:00am to 5:00pm Monday through Friday)**
4. **Other Than Normal Working Hours – Elevations Above 3000 Feet (5:00pm to 7:00am Monday through Friday, and all day Saturday, Sunday, and Holidays)**

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

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

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

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

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

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

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

ARTICLE VIII. To the fullest extent permitted by law, Contractor agrees to and shall indemnify, save, hold harmless and at County's request, defend County and its officers, agents and employees, and the Project Manager and their respective officers, agents and employees, from any and all costs and expenses, attorney fees and court costs, damages, liabilities, claims and losses occurring or resulting to County, or the Project Manager in connection with the performance, or failure to perform, by Contractor, its officers, agents or employees under this Agreement, and from any and all costs and expenses, attorney fees and court costs, damages, liabilities, claims and losses occurring or resulting to any person, firm or corporation who may be injured or damaged by the performance, or failure to perform, of Contractor, its officers, agents or employees under this Agreement. In addition, Contractor agrees to indemnify County for Federal, State of California and/or local audit exceptions resulting from noncompliance herein on the part of Contractor.

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

ARTICLE IX. If the Contractor should be adjudged a bankrupt, or if they should make a general assignment for the benefit of their creditors, or if a receiver should be appointed on account of their insolvency, or if they or any of their subcontractors should persistently violate any of the provisions of the contract, or if they should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials, or if they should fail to make prompt payment to subcontractors or for material or labor, or persistently disregard laws, ordinances or the instructions of the Engineer, then the Owner may, upon certificate of the

Engineer when sufficient cause exists to justify such action, serve written notice upon the Contractor and their surety of its intention to terminate the contract, and unless within five days after the serving of such notice, such violations shall cease and satisfactory arrangements for correction thereof be made, the contract shall, upon the expiration of said five days, cease and terminate.

In the event of any such termination, the Owner shall immediately serve written notice thereof upon the surety and the Contractor, and the surety shall have the right to take over and perform the contract, provided, however, that if the surety within ten (10) days after the serving upon it of notice of termination does not give the Owner written notice of its intention to take over and perform the contract or does not commence performance thereof within the ten (10) days stated above from the date of the serving of such notice, the Owner may take over the work and prosecute the same to completion by contract or by any other method it may deem advisable, for the account and at the expense of the Contractor, and the Contractor and their surety shall be liable to the Owner for any excess cost occasioned the Owner thereby, and in such event the Owner may without liability for so doing, take possession of and utilize in completing the work such materials, appliances, plant and other property belonging to the Contractor as may be on the site of the work and necessary therefor. In such case the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract price shall exceed the expenses of finishing the work, including compensation for additional managerial and administrative services, such excess shall be paid to the Contractor. If such expense shall exceed such unpaid balance, the Contractor shall pay the difference to the Owner. The expense incurred by the Owner, as herein provided and damage incurred through the Contractor's default, shall be certified by the Engineer.

ARTICLE X. Without limiting the COUNTY'S right to obtain indemnification from CONTRACTOR or any third parties, CONTRACTOR, at its sole expense, shall maintain in full force and effect, the following insurance policies or a program of self-insurance, including but not limited to, an insurance pooling arrangement or Joint Powers Agreement (JPA) throughout the term of the Agreement:

A. Commercial General Liability

Commercial General Liability Insurance with limits not less than those shown in the following table:

For each occurrence ^a	Aggregate for products/completed operation	General aggregate ^b	Umbrella or excess liability ^c
\$1,000,000	\$2,000,000	\$2,000,000	\$5,000,000

This policy shall be issued on a per occurrence basis. COUNTY may require specific coverages including completed operations, products liability, contractual liability, Explosion-Collapse-Underground, fire legal liability, or any other liability insurance deemed necessary because of the of the nature of this contract.

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 COUNTY, 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 COUNTY. CONTRACTOR shall obtain endorsements to the Commercial General Liability insurance policy naming COUNTY as an additional insured and providing for a thirty (30) day prior written notice of cancellation or change in terms or coverage.

Within eight (8) days from date CONTRACTOR executes this Agreement, CONTRACTOR shall provide certificates of insurance and endorsement as stated above for all of the foregoing policies, as required herein, to the County of Fresno, Design Division Manager, stating that such insurance coverages have been obtained and are in full force; that the County of Fresno, its officers, agents and employees will not be responsible for an premiums on the policies; that such Commercial General Liability insurance names

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; that such coverage for additional insured shall apply as primary insurance and any other insurance, or self-insurance shall not be cancelled or changed without a minimum of thirty (30) days advance, written notice given to COUNTY.

CONTRACTOR shall obtain endorsements to the Commercial General Liability insurance naming 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 COUNTY, 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 COUNTY.

B. Automobile Liability

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.

C. Professional Liability

If CONTRACTOR is a licensed professional or employs professional staff, (e.g., Architect, Engineer, Surveyor, etc.) in providing services, Professional Liability Insurance with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence, Three Million Dollars (\$3,000,000.00) annual aggregate with a provision for 3 year tail coverage.

D. Worker's Compensation

A policy of Worker's Compensation insurance as may be required by the California Labor Code.

ARTICLE XI. Contractor represents that they have secured the payment of Worker's Compensation in compliance with the provisions of the Labor Code of the State of California and during the performance of the work contemplated herein will continue so to comply with said provisions of said Code. Contractor shall supply the Owner with certificates of insurance, in duplicate, evidencing that Worker's Compensation Insurance is in effect and providing that the Owner will receive ten days notice of cancellation. If Contractor self-insures Worker's Compensation, Certificate of Consent to Self-insure should be provided the Owner.

ARTICLE XII. The Contractor shall forthwith furnish in duplicate, a faithful performance bond in an amount equal to \$2,000,000 each as a security for the payment of all persons performing and furnishing materials in connection with this Contract. If the aggregate outstanding Job Orders issued under the contract exceed \$2,000,000, increases in the Payment and Performance Bonds in increments of \$500,000 will be required such that the amount of the Payment and Performance Bonds are not less than one hundred percent (100%) of the outstanding aggregate Job Orders issued. Bonds shall remain in force for the duration and until completion of any outstanding Job Order. At no time may the sum of outstanding Job Orders exceed the amount of the Payment and Performance Bonds. Both bonds to be written by a surety company acceptable to the Owner and in the form prescribed by law.

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

ARTICLE XIII. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

Except as provided in Labor Code section 1725.5(f), no contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].

Except as provided in Labor Code section 1725.5(f), no contractor or subcontractor may be awarded a contract for public work on a public works project or engage in the performance of work on any public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

Contractor shall comply with all applicable laws and regulations relating to wages and employment, including all requirements imposed by the California Department of Industrial Relations (DIR). Contractor shall cooperate with County to furnish timely all information necessary for County's completion of the form required to be submitted by County when registering the Project on the DIR website; and County thereafter shall provide to Contractor the "Project ID Number" assigned by DIR in order to facilitate Contractor's submission to DIR of its certified payrolls for the Project, in the manner required and using such form as may be prescribed by DIR, in accordance with the provisions of Labor Code section 1771.4(a)(3).

ARTICLE XIV: Governing Law – Venue for any action arising out of or relating to this Agreement shall be in Fresno County, California. This Agreement shall be governed by the laws of the State of California.

This Contract, **23-19-J 23-20-J 23-21-J 23-22-J**, was awarded by the Board of Supervisors on _____. It has been reviewed by the Department of Public Works and Planning and is in proper order for signature of the Chairman of the Board of Supervisors.

IN WITNESS WHEREOF, they have executed this Agreement this _____ day of _____, 2024

(CONTRACTOR)

COUNTY OF FRESNO
(OWNER)

By _____

By _____
Nathan Magsig, Chairman
of the Board of Supervisors of the
County of Fresno

Title _____

ATTEST:
Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

By _____
Deputy

EXHIBIT 12-G: REQUIRED FEDERAL-AID CONTRACT LANGUAGE
 (For Local Assistance Construction Projects)

The following language must be incorporated into all Local Assistance Federal-aid construction contracts.
 The following language, with minor edits, was taken from the Code of Federal Regulations.

MAINTAIN RECORDS AND SUBMIT REPORTS DOCUMENTING YOUR PERFORMANCE UNDER THIS SECTION

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1. DISADVANTAGED BUSINESS ENTERPRISES (DBE)

The contractor, subrecipient or subcontractor shall take necessary and reasonable steps to ensure that DBEs have opportunity to participate in the contract (49 CFR 26). To ensure equal participation of DBEs provided in 49 CFR 26.5, the Agency shows a contract goal for DBEs. The prime contractor shall make work available to DBEs and select work parts consistent with available DBE subcontractors and suppliers.

The prime contractor shall meet the DBE goal shown elsewhere in these special provisions or demonstrate that they made adequate Good Faith Efforts (GFE) to meet this goal. An adequate GFE means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal.

If the DBE goal is not met, the contractor needs to complete and submit the DBE GFE documentation as described in Local Assistance Procedures Manual (LAPM) Chapter 9, Section 9.8 within 5 (five) days of bid opening.

It is the prime contractor's responsibility to verify that the DBE firm is certified as a DBE on the date of bid opening by using the California Unified Certification Program (CUCP) database and possesses the most specific available North American Industry Classification System (NAICS) codes and Work Code applicable to the type of work the firm will perform on the contract. Additionally, the prime contractor is responsible to document this verification by printing out the CUCP data for each DBE firm. A list of DBEs certified by the CUCP can be found at: <https://dot.ca.gov/programs/civil-rights/dbe-search>.

DBE participation will only count toward the California Department of Transportation's federally mandated statewide overall DBE goal if the DBE performs a commercially useful function under 49 CFR 26.55.

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

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

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

- The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.
- The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
- The DBE receives credit for the total value of the transportation services it provides on the Contract using trucks it owns, insures, and operates using drivers it employs.
- The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Contract.
- The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE that leases trucks equipped with drivers from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services on the contract provided by DBE-owned trucks or leased trucks with DBE employee drivers. Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement.
- The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.

- A lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

A. Nondiscrimination Statement

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

B. Contract Assurance

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

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

C. Prompt Progress Payment

In accordance with California Business and Professions Code section 7108.5, the prime contractor or subcontractor shall pay to any subcontractor, not later than seven days after receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed the contractor on account of the work performed by the subcontractors, to the extent of each subcontractor's interest therein. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from the prime contractor or subcontractor to a subcontractor, the prime contractor or subcontractor may withhold no more than 150 percent of the disputed amount. Any violation of this requirement shall constitute a cause for disciplinary action and shall subject the licensee to a penalty, payable to the subcontractor, of 2 percent of the amount due per month for every month that payment is not made.

In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to his or her attorney's fees and costs. The sanctions authorized under this requirement shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal. This clause applies to both DBE and non-DBE subcontractors.

D. Prompt Payment of Withheld Funds to Subcontractors

The Agency may hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the Agency, of the contract work, and pay retainage to the prime contractor based on these acceptances. The Agency shall designate one of the methods below in the contract to ensure prompt and full payment of any retainage kept by the prime contractor or subcontractor to a subcontractor. The Agency shall include either Method 1, Method 2, or Method 3 below and delete the other two.

Method 3: The Agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the Agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within seven (7) days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the Agency. Any delay or postponement of payment may take place only for good cause and with the

Agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code and Section 10262 of the California Public Contract Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

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

E. Termination and Replacement of DBE Subcontractors

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

Termination of DBE Subcontractors

After a contract with a specified DBE goal has been executed, termination of a DBE may be allowed for the following, but not limited to, justifiable reasons with prior written authorization from the Agency:

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.
2. The Local Agency stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet the Local Agency's bond requirements.
3. Work requires a contractor's license and listed DBE does not have a valid license under Contractors License Law, or is not properly registered with the California Department of Industrial Relations as a public works contractor.
4. Listed DBE fails or refuses to perform the work or furnish the listed materials (failing or refusing to perform is not an allowable reason to remove a DBE if the failure or refusal is a result of bad faith or discrimination).
5. Listed DBE's work is unsatisfactory and not in compliance with the contract.
6. Listed DBE is ineligible to work on the project because of suspension or debarment.
7. Listed DBE becomes bankrupt or insolvent or exhibits credit unworthiness.
8. Listed DBE voluntarily withdraws with written notice from the Contract
9. Listed DBE is ineligible to receive credit for the type of work required.
10. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the Contract.
11. The Agency determines other documented good cause.

To terminate a DBE or to terminate a portion of a DBE's work, the contractor must use the following procedures:

1. Send a written notice to the DBE of Contractor's intent to use other forces or material sources and include one or more justifiable reasons listed above. Simultaneously send a copy of this written notice to the Agency. The written notice to the DBE must request they provide any response within five (5) business days to both the Contractor and the Agency by either acknowledging their agreement or documenting their reasoning as to why the use of other forces or sources of materials should not occur.
2. If the DBE does not respond within 5 business days, Contractor may move forward with the request as if the DBE had agreed to Contractor's written notice.

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3. Submit Contractor's DBE termination request by written letter to the Agency and include:
 - One or more above listed justifiable reasons along with supporting documentation.
 - Contractor's written notice to the DBE regarding the request, including proof of transmission and tracking documentation of Contractor's written notice
 - The DBE's response to Contractor's written notice, if received. If a written response was not provided, provide a statement to that effect.

The Agency shall respond in writing to Contractor's DBE termination request within 5 business days.

Replacement of DBE Subcontractors

After receiving the Agency's written authorization of DBE termination request, the Contractor must obtain the Agency's written agreement for DBE replacement. The Contractor must find or demonstrate GFEs to find qualified DBE replacement firms to perform the work to the extent needed to meet the DBE commitment.

The following procedures shall be followed to request authorization to replace a DBE firm:

1. Submit a request to replace a DBE with other forces or material sources in writing to the Agency which must include:
 - a. Description of remaining uncommitted work items made available for replacement DBE solicitation and participation.
 - b. The proposed DBE replacement firm's business information, the work they have agreed to perform, and the following:
 - Quote for bid item work and description of work to be performed
 - Proposed subcontract agreement and written confirmation of agreement to perform on the Contract
 - Revised Subcontracting Request form
 - Revised Exhibit 15-G: Construction Contract DBE Commitment
2. If Contractor has not identified a DBE replacement firm, submit documentation of the Contractor's GFEs to use DBE replacement firms within 7 days of Agency's authorization to terminate the DBE. The Contractor may request the Agency's approval to extend this submittal period to a total of 14 days. Submit documentation of actions taken to find a DBE replacement firm, such as:
 - Search results of certified DBEs available to perform the original DBE work identified and/or other work the Contractor had intended to self-perform, to the extent needed to meet the DBE commitment
 - Solicitations of DBEs for performance of work identified
 - Correspondence with interested DBEs that may have included contract details and requirements
 - Negotiation efforts with DBEs that reflect why an agreement was not reached
 - If a DBE's quote was rejected, provide Contractor's reasoning for the rejection, such as why the DBE was unqualified for the work, or why the price quote was unreasonable or excessive
 - Copies of each DBE's and non-DBE's price quotes for work identified, as the Agency may contact the firms to verify solicitation efforts and determine if the DBE quotes are substantially higher
 - Additional documentation that supports the GFE

The Agency shall respond in writing to the Contractor's DBE replacement request within five (5) business days. The Contractor must submit a revised Subcontracting Request form if the replacement plan is authorized by the Agency.

F. Commitment and Utilization

The Agency's DBE program must include a monitoring and enforcement mechanism to ensure that DBE commitments reconcile to DBE utilization.

The bidder shall complete and sign Exhibit 15-G: Construction Contract DBE Commitment included in the contract documents regardless of whether DBE participation is reported. The bidder shall provide written confirmation from each DBE that the DBE is participating in the Contract. LAPM Exhibit 9-I: DBE Confirmation or equivalent form and DBE's quote must be submitted. The written confirmation must be submitted no later than 4pm on the 5th day after bid opening. If a DBE is participating as a joint venture partner, the bidder shall submit a copy of the joint venture agreement.

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

The prime contractor shall use each DBE subcontractor as listed on Exhibit 15-G: Construction Contract DBE Commitment unless they receive written authorization for a termination or replacement from the Agency.

The Agency shall request the prime contractor to:

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

If the prime contractor is a DBE contractor, they shall include the date of work performed by their own forces and the corresponding value of the work.

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

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

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

G. Running Tally of Attainments

For projects awarded on or after March 1, 2020, but before September 1, 2023:

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 must 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 local administering agencies.

For projects that are awarded on or after September 1, 2023:

Exhibit 9-F is no longer required. Instead, by the 15th of the month following the month of any payment(s), the prime contractor must now submit Exhibit 9-P to the Local Agency administering the contract. If the Contractor does not make any payments to subcontractors, supplier(s) and/or manufacturers they must report "no payments were made to subs this month" and write this visibly and legibly on Exhibit 9-P.

H. Commercially Useful Function

DBEs must perform a commercially useful function (CUF) under 49 CFR 26.55 when performing work or supplying materials listed on the DBE Commitment form. The DBE value of work will only count toward the DBE commitment if the DBE performs a CUF. A DBE performs a CUF when it is responsible for execution of the work on the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. If a DBE does not perform or exercise responsibility for at least 30% of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that the DBE is not performing a CUF. Additionally, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material and installing (where applicable), and paying for the material itself.

The Contractor must perform CUF evaluation for each DBE company working on a federal-aid contract, with or without a DBE goal. Perform a CUF evaluation at the beginning of the DBE's work, and continue to monitor the performance of CUF for the duration of the project.

The Contractor must provide written notification to the AGENCY at least 15 days in advance of each DBE's initial performance of work or supplying materials for the Contract. The notification must include the DBE's name, work the DBE will perform on the contract, and the location, date, and time of where their work will take place.

Within 10 (ten) days of a DBE initially performing work or supplying materials on the contract, the Contractor shall submit to the LPA the initial evaluation and validation of DBE performance of a CUF using the LAPM 9-J: Disadvantaged Business Enterprise Commercially Useful Function Evaluation. Include the following information with the submittal:

- Subcontract agreement with the DBE
- Purchase orders
- Bills of lading
- Invoices
- Proof of payment

The Contractor must monitor all DBE's performance of CUF by conducting quarterly evaluations and validations throughout their duration of work on the contract using the LAPM 9-J: DBE Commercially Useful Function Evaluation. The Contractor must submit to the AGENCY these quarterly evaluations and validations by the 5th of the month for the previous three (3) months of work.

The Contractor must notify the AGENCY immediately if the Contractor believes the DBE may not be performing a CUF.

The AGENCY will verify DBEs performance of CUF by reviewing the initial and quarterly submissions of LAPM 9-J: DBE Commercially Useful Function Evaluation, submitted supporting information, field observations, and through any additional AGENCY evaluations. The AGENCY must evaluate DBEs and their CUF performance throughout the duration of a Contract. The AGENCY will provide written notice to Contractor and DBE at least two (2) business days prior to any evaluation. The Contractor and DBE must participate in the evaluation. Upon completing the evaluation, the AGENCY must share the evaluation results with the Contractor and DBE. An evaluation could include items that must be remedied upon receipt. If the AGENCY determines the DBE is not performing a CUF the Contractor must suspend performance of the noncompliant work.

The Contractor and DBEs must submit any additional CUF related records and documents within five (5) business days of AGENCY's request such as:

- Proof of ownership or lease and rental agreements for equipment
- Tax records
- Employee rosters
- Certified payroll records
- Inventory rosters

Failure to submit required DBE Commercially Useful Function Evaluation forms or requested records and

documents can result in withholding of payment for the value of work completed by the DBE.

If the Contractor and/or the AGENCY determine that a listed DBE is not performing a CUF in performance of their DBE committed work, immediately suspend performance of the noncompliant portion of the work. The AGENCY may deny payment for the noncompliant portion of the work. The AGENCY will ask the Contractor to submit a corrective action plan (CAP) to the AGENCY within five (5) days of the noncompliant CUF determination. The CAP must identify how the Contractor will correct the noncompliance findings for the remaining portion of the DBE's work. The AGENCY has five (5) days to review the CAP in conjunction with the prime contractor's review. The Contractor must implement the CAP within five (5) days of the AGENCY's approval. The AGENCY will then authorize the prior noncompliant portion of work for the DBE's committed work.

If corrective actions cannot be accomplished to ensure the DBE performs a CUF on the Contract, then the Contractor may have good cause to request termination of the DBE.

I. Use of Joint Checks

A joint check may be used between the Contractor or lower-tier subcontractor and a DBE subcontractor purchasing materials from a material supplier if the contractor obtains prior approval from the LPA for the proposed use of joint check upon submittal of the LAPM 9-K: DLA Disadvantaged Business Enterprises (DBE) Joint Check Agreement Request form.

To use a joint check, the following conditions must be met:

- All parties, including the Contractor, must agree to the use of a joint check
- Entity issuing the joint check acts solely to guarantee payment
- DBE must release the check to the material supplier
- LPA must authorize the request before implementation
- Any party to the agreement must provide requested documentation within 10 days of the LPA's request for the documentation
- Agreement to use a joint check must be short-term, not to exceed 1 year, allowing sufficient time needed to establish or increase a credit line with the material supplier

A request for a joint check agreement may be initiated by any party. If a joint check is used, the DBE remains responsible for all elements of 49 CFR 26.55(c)(1).

Failure to comply with the above requirements disqualifies DBE participation and results in no credit and no payment to the Contractor for DBE participation.

A joint check may not be used between the Contractor or subcontractor and a DBE regular dealer, bulk material supplier, manufacturer, wholesaler, broker, trucker, packager, manufacturer's representative, or other persons who arrange or expedite transactions.

2. BID OPENING

The Agency publicly opens and reads bids at the time and place shown on the Notice to Contractors.

3. BID RIGGING

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

4. CONTRACT AWARD

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

5. CONTRACTOR LICENSE

The Contractor must be properly licensed as a contractor from contract award through Contract acceptance (23 CFR 635.110).

6. CHANGED CONDITIONS

A. Differing Site Conditions

1. During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual

nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before the site is disturbed and before the affected work is performed.

2. Upon written notification, the engineer will investigate the conditions, and if it is determined that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an adjustment, excluding anticipated profits, will be made and the contract modified in writing accordingly. The engineer will notify the contractor of the determination whether or not an adjustment of the contract is warranted.
3. No contract adjustment which results in a benefit to the contractor will be allowed unless the contractor has provided the required written notice.
4. No contract adjustment will be allowed under this clause for any effects caused on unchanged work. *[This provision may be omitted by the Local Agency, at their option.]*

B. Suspensions of Work Ordered by the Engineer

1. If the performance of all or any portion of the work is suspended or delayed by the engineer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the contractor shall submit to the engineer in writing a request for adjustment within 7 calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.
2. Upon receipt, the engineer will evaluate the contractor's request. If the engineer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the engineer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The contractor will be notified of the engineer's determination whether or not an adjustment of the contract is warranted.
3. No contract adjustment will be allowed unless the contractor has submitted the request for adjustment within the time prescribed.
4. No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided or excluded under any other term or condition of this contract.

C. Significant Changes in the Character of Work

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

7. BEGINNING OF WORK, TIME OF COMPLETION AND LIQUIDATED DAMAGES

Not used. See Specifications Section 8-1.04.

8. BUY AMERICA

Buy America Requirements apply to steel and iron, manufactured products, and construction materials permanently incorporated into the project.

Steel and Iron Materials

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

1. Foreign pig iron and processed, pelletized, and reduced iron ore may be used in the domestic production of the steel and iron materials [60 Fed Reg 15478 (03/24/1995)];
2. If the total combined cost of the materials produced outside the United States does not exceed the greater of 0.1 percent of the total contract amount or \$2,500, materials produced outside the United States may be used if authorized.

Furnish steel and iron materials to be incorporated into the work with certificates of compliance and certified mill test reports. Mill test reports must indicate where the steel and iron were melted and manufactured. All melting and manufacturing processes for these materials, including an application of a coating, must occur in the United States. Coating includes all processes that protect or enhance the value of the material to which the coating is applied.

Manufactured Products

Iron and steel used in precast concrete manufactured products must meet the requirements of the above section (Steel and Iron Materials) regardless of the amount used. Iron and steel used in other manufactured products must meet the requirements of the above section (Steel and Iron Materials) if the weight of steel and iron components constitute 90 percent or more of the total weight of the manufactured product.

Construction Materials

Buy America requirements apply to the following construction materials that are or consist primarily of:

1. Non-ferrous metals
2. Plastic and polymer-based products such as:
 - 2.1 Polyvinylchloride
 - 2.2 Composite Building Materials
3. Glass
4. Fiber optic cable (including drop cable)
5. Optical fiber
6. Lumber
7. Engineered wood
8. Drywall

All manufacturing processes for these materials as defined in 2 CFR 184.6 must occur in the United States.

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

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

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

Buy America requirements do not apply to the following:

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

Waivers

If Buy America waivers are granted, use the following language to include in the contract:

The following steel and iron products, manufactured products, or construction materials have received an approved Buy America waiver for this contract, and therefore, are not subject to Buy America requirements:

1. _____
2. _____

9. QUALITY ASSURANCE

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

10. PROMPT PAYMENT**A. FROM THE AGENCY TO THE CONTRACTORS**

The Local Agency shall make all project progress payment within 30 days after receipt of an undisputed and properly submitted payment request from the Contractor on a construction contract. If the Local Agency fails to pay promptly, the Local Agency shall pay interest to the Contractor, which accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied and pro-rated as necessary. Upon receipt of the payment request, the Local Agency shall act in accordance with both of the following:

1. The Local Agency shall review each payment request as soon as feasible after receipt to verify it is a proper payment request.
2. The Local Agency must return any payment request deemed improper by the Local Agency to the Contractor as soon as feasible, but not later than seven (7) days, after receipt. A request returned pursuant to this paragraph shall include documentation setting forth in writing the reasons why it is an improper payment request.

B. SUBMITTAL OF EXHIBIT 9-P

For projects awarded on or after September 1, 2023:

The Contractor must submit Exhibit 9-P to the Local Agency administering the contract by the 15th of the month following the month of any payment(s). If the Contractor does not make any payments to subcontractors, supplier(s) and/or manufacturers they must report "no payments were made to subs this month" and write this visibly and legibly on Exhibit 9-P.

The Local Agency must verify all Exhibit 9-P information, monitor compliance with prompt payment requirements for DBE and non-DBE firms, and address any shortfall to the DBE commitment and prompt payment issues until the end of the project. The Local Agency must email a copy of Exhibit 9-P to DBE.Forms@dot.ca.gov before the end of the month after receiving the Exhibit 9-P from the Contractor.

11. FORM FHWA-1273 REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONTRACTS

[Form FHWA-1273 must be physically inserted into the contract without modification, excluding ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS.]

*[The current version of Form FHWA-1273 is accessible at FHWA's website:
<https://www.fhwa.dot.gov/programadmin/contracts/1273/1273.pdf>]*

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

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

ATTACHMENTS

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

I. GENERAL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Training and Promotion:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10. Assurances Required:

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

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

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

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

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

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

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

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

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

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

III. NONSEGREGATED FACILITIES

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

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

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

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

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

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

1. Minimum wages (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act ([29 CFR part 3](#))), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act ([40 U.S.C. 3141\(2\)\(B\)](#)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in [29 CFR part 1](#), a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

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

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

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

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

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

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

(2) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

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

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division

under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

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

e. *Unfunded plans.* If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

f. *Interest.* In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding (29 CFR 5.5)

a. *Withholding requirements.* The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph

2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901–3907](#).

3. Records and certified payrolls (29 CFR 5.5)

a. *Basic record requirements (1) Length of record retention.* All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) *Information required.* Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) *Additional records relating to fringe benefits.* Whenever the Secretary of Labor has found under paragraph 1.e. of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(4) *Additional records relating to apprenticeship.* Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. *Certified payroll requirements (1) Frequency and method of submission.* The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting

agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) *Information required.* The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) *Statement of Compliance.* Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

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

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

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

(5) *Signature*. The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification*. The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under [18 U.S.C. 1001](#) and [31 U.S.C. 3729](#).

(7) *Length of certified payroll retention*. The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents*. The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access* (1) *Required record disclosures and access to workers*. The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements*. If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under [29 CFR part 6](#) any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures*. Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address

of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity (29 CFR 5.5)

a. *Apprentices* (1) *Rate of pay*. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) *Fringe benefits*. Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(3) *Apprenticeship ratio*. The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates*. Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity*. The use of apprentices and journeyworkers under this part must be in conformity with

the equal employment opportunity requirements of Executive Order 11246, as amended, and [29 CFR part 30](#).

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

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

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

6. Subcontracts. The contractor or subcontractor must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 29 CFR 5.5.

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

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

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility. a. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, [18 U.S.C. 1001](#).

11. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#); or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#).

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 1. of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. 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 watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1. of this section.

* \$31 as of January 15, 2023 (See 88 FR 88 FR 2210) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

3. Withholding for unpaid wages and liquidated damages

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, 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 that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901](#)–3907.

4. Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the

event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

d. Informing any other person about their rights under CWHSSA or this part.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

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

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

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;

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

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

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

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

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

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

VII. SAFETY: ACCIDENT PREVENTION

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

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

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and

health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

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

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

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

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

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.327.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.327.

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

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

1. Instructions for Certification – First Tier Participants:

- a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.
- d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Instructions for Certification - Lower Tier Participants:

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

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

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

this transaction originated may pursue available remedies, including suspension and/or debarment.

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

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

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

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

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

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

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily

excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

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

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

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

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

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

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

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

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

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

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

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or

cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

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

XII. USE OF UNITED STATES-FLAG VESSELS:

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

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

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

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B)**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

12. FEMALE AND MINORITY GOALS

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

The nationwide goal for female utilization is 6.9 percent.

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

MINORITY UTILIZATION GOALS

	Economic Area	Goal (Percent)
174	Redding CA: Non-SMSA (Standard Metropolitan Statistical Area) Counties: CA Lassen; CA Modoc; CA Plumas; CA Shasta; CA Siskiyou; CA Tehama	6.8
175	Eureka, CA Non-SMSA Counties: CA Del Norte; CA Humboldt; CA Trinity	6.6
176	San Francisco-Oakland-San Jose, CA: SMSA Counties: 7120 Salinas-Seaside-Monterey, CA CA Monterey	28.9
	7360 San Francisco-Oakland CA Alameda; CA Contra Costa; CA Marin; CA San Francisco; CA San Mateo	25.6
	7400 San Jose, CA	19.6
	CA Santa Clara, CA 7485 Santa Cruz, CA CA Santa Cruz	14.9
	7500 Santa Rosa CA Sonoma	9.1
	8720 Vallejo-Fairfield-Napa, CA CA Napa; CA Solano	17.1
	Non-SMSA Counties: CA Lake; CA Mendocino; CA San Benito	23.2
177	Sacramento, CA: SMSA Counties: 6920 Sacramento, CA CA Placer; CA Sacramento; CA Yolo Non-SMSA Counties	16.1
	CA Butte; CA Colusa; CA El Dorado; CA Glenn; CA Nevada; CA Sierra; CA Sutter; CA Yuba	14.3
178	Stockton-Modesto, CA: SMSA Counties: 5170 Modesto, CA CA Stanislaus	12.3
	8120 Stockton, CA CA San Joaquin	24.3
	Non-SMSA Counties CA Alpine; CA Amador; CA Calaveras; CA Mariposa; CA Merced; CA Tuolumne	19.8
179	Fresno-Bakersfield, CA SMSA Counties: 0680 Bakersfield, CA CA Kern	19.1
	2840 Fresno, CA	26.1

	CA Fresno Non-SMSA Counties: CA Kings; CA Madera; CA Tulare	23.6
180	Los Angeles, CA: SMSA Counties: 0360 Anaheim-Santa Ana-Garden Grove, CA	11.9
	CA Orange	28.3
	4480 Los Angeles-Long Beach, CA	
	CA Los Angeles	21.5
	6000 Oxnard-Simi Valley-Ventura, CA	
	CA Ventura	19.0
	6780 Riverside-San Bernardino-Ontario, CA	
	CA Riverside; CA San Bernardino	19.7
181	7480 Santa Barbara-Santa Maria-Lompoc, CA	
	CA Santa Barbara	24.6
	Non-SMSA Counties	
	CA Inyo; CA Mono; CA San Luis Obispo	
	San Diego, CA: SMSA Counties	16.9
7320 San Diego, CA		
CA San Diego		
Non-SMSA Counties	18.2	
CA Imperial		

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

13. TITLE VI ASSURANCES

[The U.S. Department of Transportation Order No.1050.2A requires all federal-aid Department of Transportation contracts between an agency and a contractor to contain Appendix A and E.

Note: Appendix B only requires inclusion if the contract impacts deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein. Appendices C and D only require inclusion if the contract impacts deeds, licenses, leases, permits, or similar instruments entered into by the recipient.]

APPENDIX A

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

- a. Compliance with Regulations: CONTRACTOR shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.
- b. Nondiscrimination: CONTRACTOR, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONTRACTOR shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.
- c. Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by CONTRACTOR for work to be performed under a Sub- agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by CONTRACTOR of the CONTRACTOR'S obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of

race, color, or national origin.

- d. **Information and Reports:** CONTRACTOR shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the recipient or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information, CONTRACTOR shall so certify to the recipient or FHWA as appropriate, and shall set forth what efforts CONTRACTOR has made to obtain the information.
- e. **Sanctions for Noncompliance:** In the event of CONTRACTOR's noncompliance with the nondiscrimination provisions of this agreement, the recipient shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - i. withholding of payments to CONTRACTOR under the Agreement within a reasonable period of time, not to exceed 90 days; and/or
 - ii. cancellation, termination or suspension of the Agreement, in whole or in part.
- f. **Incorporation of Provisions:** CONTRACTOR shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

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

APPENDIX E

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

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex;
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination of the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations 49 C.F.R. parts 37 and 38;

- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

Federal Trainee Program Special Provisions
(to be used when applicable)

14. FEDERAL TRAINEE PROGRAM

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

This section applies if a number of trainees or apprentices is shown on the Notice of Bidders.

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

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

If the prime contractor subcontracts a contract part, they shall determine how many trainees or apprentices are to be trained by the subcontractor. Include these training requirements in each subcontract.

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

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

Before starting work, the prime contractor shall submit to the City/County of Fresno:

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

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

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

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

1. In any classification in which the employee has successfully completed a training course leading to journeyman status or in which the employee has been employed as a journeyman
2. Who is not registered in a program approved by the US Department of Labor, Bureau of Apprenticeship and Training

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

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

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

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

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

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

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

Each apprentice or trainee must:

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

Furnish the apprentice or trainee a:

1. Copy of the training plan approved by the U.S, Department of Labor or a training plan for trainees approved by both Caltrans and FHWA
2. Certification showing the type and length of training satisfactorily completed

Maintain records and submit reports documenting contractor's performance under this section.

15. PROHIBITION OF CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE EQUIPMENT AND SERVICES

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

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

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

- Huawei Technologies Company;
- ZTE Corporation;

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

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

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

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