

Project Manual

GENERAL BUILDING JOB ORDER CONTRACT

Contract #'s 23-J-05, Class B
23-J-06
23-J-07
23-J-08

The County of Fresno Department of Public Works and Planning

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

Bid Documents

Pre-bid Conference: Wednesday, November 29, 2023, 1:00 p.m.

Bid Date: Thursday, December 14, 2023, 1400 hours and 00 seconds

Budget / Account – Various Funding Orgs



Development Services & Capital Projects Division

Department of Public Works & Planning

Contract :#23-J-05
23-J-06
23-J-07
23-J-08

Cover Sheet
00 00 10-1

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

JOB ORDER CONTRACT

Contract #23-J-05, Class B
Contract #23-J-06, Class B
Contract #23-J-07, Class B
Contract #23-J-08, Class B

Adopted by the Fresno County Board of Supervisors, _____, 2024

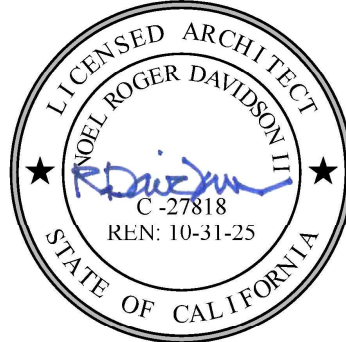
Nathan Magsig, Chairman	5 th District
Buddy Mendes, Vice Chairman	4 th District
Brian Pacheco	1 st District
Steve Brandau	2 th District
Sal Quintero, Chairman	3 rd District

Paul Nerland, County Administrative Officer

Steve White

Digitally signed by Steve
White
Date: 2023.11.29 14:06:10
-08'00'

Steven White, Director
Department of Public Works and Planning



11/27/23
Date Signed

Capital Projects: _____

Noel Roger Davidson, #C27818
License Renewal 10/31/25

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

Consultant:

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

Contract No.: #23-J-05
23-J-06
23-J-07
23-J-08

Signature Page
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JOB ORDER CONTRACTS

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

GENERAL BUILDING JOB ORDER CONTRACT

Contract # 23-J-05, Class B
23-J-06
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***Sections 00 21 13 through 00 45 46 included in Bid Book**

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

END OF SECTION

Contract No.: # 23-J-05
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JOB ORDER CONTRACTS

1 BOARD OF SUPERVISORS COUNTY OF FRESNO STATE OF CALIFORNIA

2
3 NOTICE TO BIDDERS

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

9
10 **2:00 P.M., (1400 hours and 00 seconds)**
11 **Thursday, December 14, 2023**

12
13 at which time the bidding will be closed.

14
15
16 **If you have any questions about bid submission, please contact us at**
17 **DesignServices@fresnocountyca.gov or call (559) 600-4241 or (559) 600-4543.**

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

23
24 **GENERAL BUILDING JOB ORDER CONTRACT**

25
26 **Contract Numbers.: 23-J-05, Class B**
27 **23-J-06, Class B**
28 **23-J-07, Class B**
29 **23-J-08, Class B**

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

37
38 **A MANDATORY pre-bid conference will be held at 1:00 p.m., on Wednesday,**
39 **November 29, 2023 for the purpose of discussing the Job Order Contract**
40 **concept, documents, bid considerations and to discuss Job Order Contracting**
41 **from a contractor's viewpoint. The MANDATORY pre-bid conference will be held**
42 **online (the link for which will be posted at**
43 **<http://www.fresnocountyca.gov/planholders>).**

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

48
49 Bidders will bid two sets of Adjustment Factors to be applied to the Unit Prices. One
50 set of Adjustment Factors for projects in General Facilities, one set of Adjustment

Contract No.: 23-J-05
23-J-06
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Notice to Bidders
00 11 13-1

JOB ORDER CONTRACTS

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

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

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

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

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

27
28 Minimum and Maximum Contract Values:

- 29 A. There is no Minimum Contract Value for this Contract. If a contract is awarded,
30 the Contractor is not guaranteed to receive a specified minimum amount of
31 work during the Contract Term.
32
33 B. The Maximum Contract Value is \$5,797,725. The Contractor is not guaranteed
34 to receive this volume of Work Orders. It is merely an estimate. The Owner has
35 no obligation to issue Work Orders in excess of the Minimum Contract Value.
36
37 C. The successful bidder shall furnish a payment bond and a performance bond
38 in the amount of \$1,000,000 each as security for the payment of all persons
39 performing and furnishing materials in connection with this Contract. If the
40 aggregate outstanding Job Orders issued under the contract exceeds
41 \$1,000,000, increases in the Payment and Performance Bonds in increments
42 of \$500,000 will be required such that the amount of the Payment and
43 Performance Bonds are not less than one hundred percent (100%) of the
44 outstanding aggregate Job Orders issued. Bonds shall remain in force for the
45 duration and until completion of any outstanding Job Order. At no time may the
46 sum of outstanding Job Orders exceed the amount of the Payment and
47 Performance Bonds.
48

1 Contract Term:

- 2 A. The Contract Term commences on the date the contract is executed by the
3 County of Fresno Board of Supervisors (i.e.: the effective date of the Contract).
4
- 5 B. The term of the Job Order Contract will be either for one year or when issued
6 Work Orders totaling the Maximum Contract Value have been completed,
7 whichever occurs first. All Work Orders must be issued but not necessarily
8 completed within one calendar year of the effective date of the Contract. All
9 Work Orders for which a Notice to Proceed is issued by the County Contract
10 Manager during the term of this Contract shall be valid and in effect
11 notwithstanding that the Detailed Scope of Work may be performed, payments
12 may be made, and the guarantee period may continue, after the Contract Term
13 has expired. All terms and conditions of the Contract apply to each Work Order.
14 No notices to proceed will be issued after 5:00, P.M. on the final day of the
15 Contract Term.
16

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

18
19 [https://www.fresnocountyca.gov/Departments/Public-Works-and-
20 Planning/Construction-Bidding-Opportunities/Request-to-Be-Added-to-the-
21 Planholders-List-Form](https://www.fresnocountyca.gov/Departments/Public-Works-and-Planning/Construction-Bidding-Opportunities/Request-to-Be-Added-to-the-Planholders-List-Form)
22

23 Requesters will then be listed as a planholder for the project on the website and
24 receive email notifications and addenda regarding the project.
25

26 Prospective bidders may also select the project on www.BidExpress.com. Those that
27 demonstrate interest in the project will also be added to the planholders list, and will
28 receive notifications and addenda regarding this project.
29

30 Planholder and exchange/publication names may be obtained from the Fresno County
31 website at <http://www.fresnocountyca.gov/planholders>. Electronic copies in “.pdf” file
32 format of the official project plans and specifications and such additional supplemental
33 project information as may be provided at the mandatory pre-bid conference.
34

35 The bid documents are available online at:
36 <https://www.bidexpress.com/businesses/36473/home> and bids may be submitted
37 electronically through that website.
38

39 If a bidder is unable to submit a bid via Bid Express, Bid books, which contain bid
40 proposal sheets necessary to submit a bid, may be obtained at
41 <http://www.fresnocountyca.gov/planholders>. Paper bids shall be submitted in a
42 sealed, opaque envelope addressed to the Department and labeled with the name of
43 the bidder, the name of the project, the contract number, and the statement 'Do Not
44 Open Until The Time Of Bid Opening.'
45

46 A Summary of Bids for the apparent low bidder will be posted at the above listed
47 website, generally within 24 hours of the Bid Opening.
48

49 All questions regarding this contract shall be in writing and shall be received by the
50 Department of Public Works and Planning, Design Division, no later than 2:00 P.M.
51 on the seventh (7th) calendar day before bid opening. Any questions received after
52 this deadline will not receive a response unless the Department of Public Works and

1 Planning elects to issue an addendum to revise the bid opening date. In the event that
2 the bid opening date is revised, the deadline for questions will be extended to no later
3 than 2:00 P.M. on the seventh (7th) calendar day before the revised bid opening date.
4 Questions shall be submitted on the Request for Clarification form provided on the
5 contract website at:

6
7 [https://www.fresnocountyca.gov/Departments/Public-Works-and-
8 Planning/Construction-Bidding-Opportunities/23-J-05-23-J-06-23-J-07-23-J-08-
9 Class-B-General-Engineering-Job-Order-Contract/Request-for-Clarification-Form](https://www.fresnocountyca.gov/Departments/Public-Works-and-Planning/Construction-Bidding-Opportunities/23-J-05-23-J-06-23-J-07-23-J-08-Class-B-General-Engineering-Job-Order-Contract/Request-for-Clarification-Form)

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

15
16 Any oral explanation or interpretations given to this project are not binding.

17
18 Bidders will submit one (1) bid that will be considered for three potential Contracts
19 being offered.

20
21 Bidders will bid two (2) sets of Adjustment Factors to be applied to the Unit Prices:

- 22 • One set of Adjustment Factors for projects in General Facilities.
- 23 • One set of Adjustment Factors for projects in a Secure Facility.

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

29
30 The County intends to award a contract to each of the four (4) lowest responsible
31 bidders. One proposal must be submitted by each bidder wishing to bid for one of the
32 three contracts in the Class B license category. Bids will be compared, for purposes
33 of identifying the apparent low bidder for proposed award of the contract, on the basis
34 of the Award Criteria Figure. The Award Criteria Figure is the sum of the weighted
35 Adjustment Factors.

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

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

1 to all Job Orders issued to the Contractor under the terms of this Contract. The
2 Contractor shall include the JOC System License Fee in the Adjustment Factors..
3

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

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

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

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

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

40
41 The Federal minimum wage rates for this project as predetermined by the United
42 States Secretary of Labor are set forth in **General Decision Number CA20230018,**
43 **Dated 11/03/2023,** which is incorporated in these special provisions by this reference
44 as if fully set forth herein and which can be viewed at <https://www.SAM.gov>, under
45 CA20230018. Said Federal wage rates, as well as project plans, special provisions,
46 and bid forms, may also be examined at the County of Fresno office described in the
47 preceding paragraph. Addenda to modify the reference to Federal minimum wage
48 rates to reflect revisions thereto, if necessary, will be issued to planholders of record.

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

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

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

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

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

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

38
39 Board of Supervisors, County of Fresno

40
41 Paul Nerland, County Administrative Officer

42
43 Bernice E. Seidel, Clerk to the Board

44
45 Issue Date: November 14, 2023

46
47
END OF SECTION

1 INSTRUCTIONS TO BIDDERS

2
3 1.01 EXPLANATION TO BIDDERS

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

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

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

25
26
27 1.03 PROPOSAL GUARANTEE

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

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

37
38
39 1.04 PREPARATION OF PROPOSALS

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

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

1
2 Alternate or conditional bids will not be accepted.

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

11
12 The required proposal guarantee must accompany the proposal.

13
14
15 **1.05 SUBCONTRACTORS**

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

19
20
21 **1.06 SUBMISSION OF PROPOSAL**

22
23 **A. Electronic Bid Submittal**

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

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

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

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

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

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

3
4 The required proposal guarantee must accompany the proposal.

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

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

16 17 18 1.07 IRREGULAR PROPOSALS

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

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

32 33 34 1.08 DISQUALIFICATION OF BIDDERS

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

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

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

15

16 1.09 WITHDRAWAL OR REVISION OF PROPOSALS

17

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

22

23

24 1.10 PUBLIC OPENING OF PROPOSALS

25

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

28

29

30 1.11 BID PROTEST PROCEDURE / RELIEF OF BIDDER

31

32 A. BID PROTEST PROCEDURE

33

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

40

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

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

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

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

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

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

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

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

29
30 **B. RELIEF OF BIDDER**

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

35
36
37 **1.12 AWARD OF CONTRACT**

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

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

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

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

11 12 13 1.13 CANCELLATION OF AWARD

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

18 19 20 1.14 CONTRACT BONDS

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

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

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

1
2 The contract form is attached hereto for the Contractor's information only. Execution
3 of the contract by bidders will not be required until after the bid award is made. Liability
4 and Workers Compensation Insurance requirements shall be as set forth in the
5 Agreement.
6

7
8 **1.15 BUILDERS RISK INSURANCE**
9

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

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

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

31 **END OF SECTION**
32
33

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

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

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

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

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

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

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

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

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

27 Corporation - list officers

28 Partnership - list partners

29 Joint Venture - list members

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

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

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

35 Corporation - by an officer

36 Partnership - by a partner

37 Joint Venture - by a member

38 Individual - by the Owner

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

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

1 Mailing Address - P.O. Box or Street Address

2
3 **BID SECURITY (PROPOSAL GUARANTEE)**

4
5 \$25,000.00

6
7 Type of Bid Security:

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

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

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

22
23 **P-4.2, NON COLLUSION DECLARATION (Section 00 45 19)**

24
25 Must be completed, signed, and returned with bid.

26
27 **P-5, MINORITY BUSINESS ENTERPRISE (Section 00 43 39)**

28
29 (N/A).

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

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

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

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

45
Contract No.: #23-J-05
23-J-06
23-J-07
23-J-08

Bidder's Checklist
00 22 13-2

JOB ORDER CONTRACTS

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

2
3 Bidder to complete and return with bid.

4
5 **OTHER**

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

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

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

16
17
18 END OF SECTION
19
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PROPOSAL TO THE BOARD OF SUPERVISORS
COUNTY OF FRESNO

Contract: **General Building Job Order Contract**

Contract No.: **#23-J-05**
23-J-06
23-J-07
23-J-08

Various Funding Orgs.

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 Contracting Requirements and they propose and agree 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.

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

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

Adjustment Factor 2 must be greater than or equal to Adjustment Factor 1, Adjustment Factor 3 must be greater than or equal to Adjustment Factor 1. Adjustment Factor 4 must be greater than or equal to Adjustment Factor 3. Adjustment Factors not adhering to these requirements may result in Proposals being deemed non-responsive.

1 The Contractor shall perform the Tasks required by each individual Job Order
2 using the following Adjustment Factors. When submitting Work Order Price
3 Proposals related to specific Work Orders, the Contractor shall utilize one or
4 more of the Adjustment Factors applicable to the Work being performed
5 provided on the Schedule of Adjustment Factors below, as applicable.
6

7
8 **Example**

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11
12
13 One Point Two One Zero Two

14 (Written in words)

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---	---	---	---	---	---

(Specify to four (4) decimal places)

1 **BIDDER:** _____

2
3 **Schedule of Adjustment Factors**

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

7
8
9 1. **General Facilities - Normal Working Hours** (7:00am to 5:00pm Monday through
10 Friday)

11 _____
12
13
14 (Written in words)

	■				
--	---	--	--	--	--

15 (Specify to four (4) decimal places)

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

18 _____
19
20
21 (Written in words)

	■				
--	---	--	--	--	--

22 (Specify to four (4) decimal places)

25 3. **Secure Facilities – Normal Working Hours** (7:00am to 5:00pm Monday through
26 Friday)

27 _____
28
29
30 (Written in words)

	■				
--	---	--	--	--	--

31 (Specify to four (4) decimal places)

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

34 _____
35
36
37 (Written in words)

	■				
--	---	--	--	--	--

38 (Specify to four (4) decimal places)

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BIDDER: _____

Acknowledgement of Addendum:

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

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

Award Criteria Figure

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

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

Instructions To Bidder: Specify lines 1 through 9 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.	General Facilities – Normal Working Hours (7:00am to 5:00pm Monday through Friday)	1.	
Line 2.	Multiply Line 1 by 70%		2.
Line 3.	General Facilities – Other Than Normal Working Hours (5:00pm to 7:00am Monday through Friday, and all day Saturday, Sunday, and Holidays)	3.	
Line 4.	Multiply Line 3 by 10%		4.
Line 5.	Secure Facilities – Normal Working Hours (7:00am to 5:00pm Monday through Friday)	5.	
Line 6.	Multiply Line 9 by 15%		6.
Line 7.	Secure Facilities – Other Than Normal Working Hours Other Than Normal Working Hours (7:00am to 5:00pm Monday through Friday)	7.	
Line 8.	Multiply Line 11 by 5%		8.
Line 9.	Add Lines 2, 4, 6, and 8. This is the Award Criteria Figure:		

END OF PROPOSAL FORM

END OF SECTION

1 **Bid Security**

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

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

5
6 **Addenda Acknowledgement**

7 Bidder has and acknowledges the following addenda: _____

8
9 **Business Information**

10 Business Name _____

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

13 Business Owners and Officers Names _____

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

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

19 Names of Owners and Key Employees _____

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

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

23 Class _____ Contractor License No. _____ Expires _____

24 DIR Registration Number _____

25
26 Business Address: _____

Zip Code

27
28 Mailing Address: _____

Zip Code

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

31
32 Email Address _____

33
34 **Bidder Signature**

35 Signature of Bidder: _____ Dated: _____

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

46
47 **END OF SECTION**

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

2 **CONTRACT:** 23-J-05 23-J-06 23-J-07 23-J-08, Class B

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

5
6 **NON-COLLUSION DECLARATION**

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

9
10 The undersigned declares:

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

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

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

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

37
38 I declare under penalty of perjury under the laws of the State of California that the
39 foregoing is true and correct and that this declaration is executed on _____,
40 2024,

41
42 at _____,"
43 [city] [state]

44
45 (Signature)

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

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

53
54 **END OF SECTION**

Contract No.: #23-J-05
23-J-06
23-J-07
23-J-08

Non-Collusion Declaration
00 45 19-1

GENERAL BUILDING
JOB ORDER CONTRACTS

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

2 **CONTRACT:** 23-J-05 23-J-06 23-J-07 23-J-08, Class B

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

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

17
18
19
20 _____
(Company)

21
22 By: _____

23
24 _____
(Title)

25
26
27 Date: _____

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

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

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

46
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53
Contract No.: #23-J-05
23-J-06
23-J-07
23-J-08

Equal Opportunity
Certification
00 45 36-1

GENERAL BUILDING
JOB ORDER CONTRACTS

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

2
3 **CONTRACT:** 23-J-05 23-J-06 23-J-07 23-J-08, Class B

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

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

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

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

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

22
23 () No Exceptions

24 _____
25 _____
26 _____

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

31 _____
32 _____

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

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

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

44
45 Company: _____

46
47 By: _____

48
49 Date: _____

50
51 Title: _____

52
53 Proposal - 6.2

Contract No.: #23-J-05
23-J-06
23-J-07
23-J-08

Debarment and
Suspension Certification
00 45 46-1

GENERAL BUILDING
JOB ORDER CONTRACTS

NONLOBBYING CERTIFICATION FOR FEDERAL-AID CONTRACTS

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

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

Bidder: _____

By: _____

Date: _____

Title: _____

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AGREEMENT

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

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

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

ARTICLE I. The Contractor agrees to furnish all labor, equipment and materials, including tools, implements, and appliances required, and to perform all the work in a good and workmanlike manner, free from any and all liens and claims of mechanics, materialmen, subcontractors, artisans, machinists, teamsters, and laborers required for **Job Order Contract No. 23-J-05 also referred to herein as the "Contract"**.

23-J-06

23-J-07

23-J-08

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

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

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

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

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

22
23 The Contract is an indefinite-quantity contract for construction work and services. There
24 is no Minimum Contract Value for this Contract. If a contract is awarded, the Contractor
25 is not guaranteed to receive a specified minimum amount of work during the Contract
26 Term. The Maximum Contract Value is \$5,797,725.00. The Contractor is not guaranteed
27 to receive this volume of Work Orders. The Owner has no obligation to issue Work
28 Orders in excess of the Minimum Contract Value.

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

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

48
49 **Material price spike adjustment:** For the purpose of this clause, a “major spike” is
50 defined as a spike in a specific material cost of more than 25% above what the cost of
51 that material was on the date the Construction Task Catalog® was issued.

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

17 **ARTICLE V. TERM:** The Term of the Job Order Contract shall be for one (1) year, or
18 when issued Work Orders totaling the Maximum Contract Value have been completed,
19 whichever occurs first. All Work Orders shall be issued, but not necessarily completed
20 within one calendar year after the commencement date of this Agreement.
21

22 All Work Orders for which a Notice to Proceed is issued by the County Contract Manager
23 during the term of this Contract shall be valid and in effect notwithstanding that the
24 Detailed Scope of Work may be performed, payments may be made, and the guarantee
25 period may continue, after the Contract Term has expired. All terms and conditions of
26 the Contract apply to each Work Order. No notices to proceed will be issued after 5:00,
27 P.M. on the final day of the Contract Term.
28

29 **ARTICLE VI.** The Contractor and the Owner agree that changes in this Agreement shall
30 become effective only when written in the form of an amendment approved and signed
31 by the Owner and the Contractor.
32

33 The Contractor and the Owner agree that the Owner shall have the right to request any
34 alterations, deviations, reductions or additions to the Detailed Scope of Work of the
35 individual Work Orders or specifications or any of them, and the amount of the cost
36 thereof shall be handled by issuance of a Supplemental Work Order.
37

38 This contract shall be deemed completed when the work of all individual Work Orders is
39 finished in accordance with all Contract Documents as amended by such changes. No
40 such change or modification shall release or exonerate any surety upon any guaranty or
41 bond given in connection with this contract.
42

43 **ARTICLE VII.** In the event of a dispute between the Owner or Project Manager and the
44 Contractor as to an interpretation of any of the specifications or as to the quality of
45 sufficiency of material or workmanship, the decision of the Project Manager shall for the
46 time being prevail and the Contractor, without delaying the job, shall proceed as directed
47 by the Project Manager without prejudice to a final determination by negotiation,
48 arbitration by mutual consent or litigation and should the Contractor be finally determined
49 to be either wholly or partially correct, the Owner shall reimburse him for any added costs
50 they may have incurred by reason of work done or material supplied beyond the terms
51 of the contract as a result of complying with the Project Manager's directions as
52 aforesaid. In the event the Contractor shall neglect to prosecute the work properly or
53 fail to perform any provisions of this contract, the Owner, after three days' written notice
54 to the Contractor, may, without prejudice to any other remedy it may have, make good

1 such deficiencies and may deduct the cost thereof from the payment then or thereafter
2 due to the Contractor, subject to final settlement between the parties as in this paragraph
3 hereinabove provided.
4

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

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

36 If the unpaid balance of the contract price shall exceed the expense of finishing the work,
37 including compensation for additional managerial and administrative services, such
38 excess shall be paid to the Contractor. If such expense shall exceed such unpaid
39 balance, the Contractor shall pay the difference to the Owner. The expense incurred by
40 the Owner as herein provided, and damage incurred through the Contractor's default,
41 shall be certified by the Project Manager.
42

43 **ARTICLE IX.** The Contractor and their subcontractors shall comply with Sections 1770
44 – 1780 of the California Labor Code and the provisions of Sections 2.52 and 2.55 of the
45 General Conditions concerning the payment of wages to all workers and mechanics,
46 and the employment and payment of apprentices by the Contractor or any subcontractor
47 for all work performed under this Agreement.
48

49 **ARTICLE X.** The Contractor and their subcontractors shall comply with Sections 1810
50 to 1815 of the California Labor Code and the provisions of Section 2.51 of the General
51 Conditions, concerning hours of work and payment of overtime compensation for all
52 work performed under this Agreement.
53

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

15 In any and all claims against the County, the Project Manager, or any of their respective
16 officers, agents or employees, initiated by any employee of the Contractor, any
17 Subcontractor, anyone directly or indirectly employed by any of them or anyone for
18 whose acts any of them may be liable, the indemnification obligation set forth in the
19 immediately preceding paragraph shall not be limited in any way by any limitation on the
20 amount or type of damages, compensation or benefits payable by or for the Contractor
21 or any Subcontractor under workmen's compensation acts, disability benefit acts or other
22 employee benefit acts.
23

24 **ARTICLE XII. INSURANCE:** Without limiting the Owner's right to obtain indemnification
25 from Contractor or any third parties, Contractor, at its sole expense, in accordance with
26 the provisions of Section 2.40 of the General Conditions, shall maintain in full force and
27 effect the following insurance policies throughout the term of this Agreement, excepting
28 only those policies for which a longer term is specified:
29

30 A. Commercial General Liability Insurance, with scope and amount of coverage
31 as specified in Section 2.40 E.2 of the General Conditions.
32

33 B. Automobile Liability Insurance, with scope and amount of coverage as specified in
34 Section 2.40 E.2 of the General Conditions.
35

36 C. Professional Liability Insurance, with scope and amount of coverage as specified in
37 Section 2.40 E.3 of the General Conditions.
38

39 D. Worker's Compensation Insurance, with scope and amount of coverage as
40 specified in Section 2.40 E. 4 of the General Conditions.
41

42 The Certificate of Insurance shall be issued in triplicate, to the COUNTY OF FRESNO,
43 and all other participating agencies, whether or not said agencies are named herein,
44 who contribute to the cost of the work or have jurisdiction over areas in which the work
45 is to be performed and all officers and employees of said agencies while acting within
46 the course and scope of their duties and responsibilities.
47

1 **ARTICLE XIII. MISCELLANEOUS PROVISIONS:**
2

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

13 2. INDEPENDENT CONTRACTOR.
14

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

35 3. DISCLOSURE OF SELF-DEALING TRANSACTIONS
36

37 **This provision is only applicable if the CONTRACTOR is operating as a**
38 **corporation (a for-profit or non-profit corporation) or if during the term of the**
39 **agreement, the CONTRACTOR changes its status to operate as a corporation.**
40

41 **Members of the CONTRACTOR's Board of Directors shall disclose any self-**
42 **dealing transactions that they are a party to while CONTRACTOR is providing**
43 **goods or performing services under this agreement. A self-dealing transaction**
44 **shall mean a transaction to which the CONTRACTOR is a party and in which one**
45 **or more of its directors has a material financial interest. Members of the Board of**
46 **Directors shall disclose any self-dealing transactions that they are a party to by**
47 **completing and signing a Self-Dealing Transaction Disclosure Form, attached**
48 **hereto as Exhibit A and incorporated herein by reference, and submitting it to the**

1 **OWNER prior to commencing with the self-dealing transaction or immediately**
2 **thereafter.**

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

9
10 **ARTICLE XV. USE OF UNITED STATES FLAG VESSELS:** The Contractor agrees:
11 (1) To utilize privately owned United States-flag commercial vessels to ship at least 50
12 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners,
13 and tankers) involved, whenever shipping any equipment, material, or commodities
14 pursuant to this contract, to the extent such vessels are available at fair and reasonable
15 rates for United States-flag commercial vessels.

16
17 "(2) To furnish within 20 days following the date of loading for shipments originating
18 within the United States or within 30 working days following the date of loading for
19 shipments originating outside the United States. a legible copy of a rated, 'on-board'
20 commercial ocean bill-of-lading in English for each shipment of cargo described in
21 paragraph (1) of this section to both the Contracting Officer (through the prime contractor
22 in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office
23 of Market Development, Maritime Administration, Washington, DC 20590.

24
25 "(3) To insert the substance of the provisions of this clause in all subcontracts issued
26 pursuant to this contract.
27

1 This Contract, **23-J-**____, was awarded by the Board of Supervisors on
2 _____. It has been reviewed by the Department of Public Works and
3 Planning and is in proper order for signature of the Chairman of the Board of
4 Supervisors.
5

6
7 IN WITNESS WHEREOF, they have executed this Agreement this _____
8 day of _____, 2024
9

10
11
12
13
14 _____
15 (CONTRACTOR)

_____ COUNTY OF FRESNO _____
(OWNER)

16
17
18 By _____
19
20 Title _____
21

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

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

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

By _____
Deputy

35
END OF SECTION

CONTRACT: JOB ORDER CONTRACT

CONTRACT NO: #23-J-05 23-J-06 23-J-07 23-J-08, Class B

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

G U A R A N T Y

To the Owner: County of Fresno

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

ALL WORK

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

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

(Company)

By:_____

(Title)

Date:_____

END OF SECTION

1 GENERAL CONDITIONS

2
3
4 2.01 IDENTIFICATION OF CONTRACT

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

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

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

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

10 2.03 OWNERSHIP AND USE OF DOCUMENTS
11

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

21
22 2.04 DEFINITIONS
23

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

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

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representative. The term Subcontractor does not include any separate contractor or any separate contractor's subcontractors.

- G. Sub-subcontractor – Person, persons, entity, co-partnership or corporation having a direct or indirect contract with a Subcontractor to perform any of the Work at the site (i.e. a second-tier, third-tier or lower-tier Subcontractor). The term Sub-subcontractor means a Sub-subcontractor or an authorized representative thereof.
- H. Adjustment Factor – A competitively bid adjustment to be applied to the unit prices listed in the Construction Task Catalog®.
- I. Construction Task Catalog®- A comprehensive listing of construction related tasks together with a specific unit of measure and a published Unit Price.
- J. Detailed Scope of Work – A document setting forth the work the Contractor is obligated to complete for a particular Work Order.
- K. Work Order – A written order issued by the Owner, such as a Purchase Order, requiring the Contractor to complete the Detailed Scope of Work within the Work Order Completion Time for the Work Order Price. A project may consist of one or more Work Orders.
- L. Work Order Completion Time – The time within which the Contractor must complete the Detailed Scope of Work.
- M. Work Order Price – The amount a Contractor will be paid for completing a Work Order.
- N. Joint Scope Meeting – A site meeting attended by the Owner and Contractor to discuss the work before the Detailed Scope of Work is finalized.
- O. Maximum Contract Value - The maximum value of Work Orders that the Contractor may receive under this Contract.
- P. Minimum Contract Value – The minimum value of Work Orders that the Contractor is guaranteed the opportunity to perform under this Contract.
- Q. Non Pre-priced Task – An item of work required by the Detailed Scope of Work but not included in the Construction Task Catalog®.
- R. Normal Working Hours – Includes the hours from 7:00 a.m. to 5:00 p.m. Monday through Friday, except for Owner holidays.
- S. Notice to Proceed - A written notice issued by the Owner directing the Contractor to proceed with construction activities to complete the Work Order.
- T. Other than Normal Working Hours – Includes the hours of 5:00 p.m. to 7:00 a.m. Monday through Friday and all day Saturday, Sunday, and Owner Holidays.
- U. Pre-priced Task – An item of work included in the Construction Task Catalog® for which a Unit Price is given.

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- V. Price Proposal – A price proposal prepared by the Contractor that includes the Pre-priced Tasks, Non Pre-priced Tasks, appropriate quantities and appropriate Adjustment Factors required to complete the Detailed Scope of Work.
- W. Proposal Package – A set of documents including at least: (1) a Price Proposal; (2) a proposed construction schedule; (3) a list of proposed subcontractors; (4) sketches, drawings, or layouts; and (5) technical data or information on proposed materials or equipment.
- X. Request for Proposal – A written request to the Contractor to prepare a Proposal for the Detailed Scope of Work referenced therein.
- Y. Supplemental Work Order - A Work Order issued to add or delete Work from an existing, related Work Order.
- Z. Technical Specifications – Contains the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.
- AA. 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 Catalog®. Each Unit Price is comprised of labor, equipment, and material costs to accomplish that specific Pre-priced Task.
- BB. Days- All days shall be measured in calendar days unless specifically noted otherwise in these documents or referenced codes.
- CC. Year- One year shall be measured in terms of 365 calendar days.

2.05 SPECIFICATIONS AND DRAWINGS

- A. Precedence – Anything mentioned in the Specifications and not shown on the Drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. Subject to Section 2.02, in cases of discrepancy concerning dimension, quantity and location, the Drawings shall take precedence over the Specifications. Explanatory notes on the Drawings shall take precedence over conflicting drawn indications. Large scale details shall take precedence over smaller scale details and figured dimensions shall take precedence over scaled measurement. Where figures are not shown, scale measurements shall be followed but shall in all cases be verified by measuring actual conditions of Work already in place. In cases of discrepancy concerning quality and application of materials and non-technical requirements over materials, the specifications shall take precedence over Drawings.
- B. Division of Specifications - For convenience of reference and to facilitate the letting of independent contracts, this specification may be separated into certain sections; such separation shall not operate to oblige the Owner, Architect or Professional Consultant to establish the limits of any contract between the Contractor and Sub-Contractor each of whom shall depend upon his/her own

1 contract stipulations. The General Conditions apply with equal force to all work,
2 including extra work.

3
4 C. Governing Factors - Dimensions figured on drawings shall be followed in every
5 case in preference to scale of drawings.

6
7 D. Discrepancies - Should the Contractor, at any time, discover a discrepancy in a
8 drawing or specification, or any variation between dimensions on drawings and
9 measurements at site, or any lacking of dimensions or other information, he/she
10 shall report at once to the Project Manager requesting clarification and shall not
11 proceed with the work affected thereby until such clarification has been made. If
12 the Contractor proceeds with work affected by such discrepancies, without having
13 received such clarification, he/she does so at his/her own risk. Any adjustments
14 involving such circumstances made by the Contractor, prior to approval by the
15 Project Manager, shall be at the Contractor's risk and the settlement of any
16 complications or disputes arising therefrom shall be at the Contractor's sole
17 expense and Contractor shall indemnify, hold harmless and defend Owner,
18 Owner's representatives, and Project Manager from any liability or loss with
19 respect to said adjustments.

20
21 E. Scope of Drawings – When drawings are included in the Detailed Scope of Work,
22 the drawings shall be held to determine the general character of the Work as well
23 as its details. Parts not detailed shall be constructed in accordance with best
24 standard practice for work of this class, so as to afford the requisite strength and
25 logically complete the parts they compose. Where it is obvious that a drawing
26 illustrates only a part of a given work or of a number of items, the remainder shall
27 be deemed repetitious and so construed. The Contractor shall be responsible for
28 all errors made in using any drawings which have been superseded.

29
30 F. Shop Drawings, Product Data and Samples –

31
32 1. Shop Drawings are drawings, diagrams, schedules and other data
33 specially prepared for the Work by the Contractor or any Subcontractor,
34 manufacturer, supplier or distributor to illustrate some portion of the Work.
35 Product Data are illustrations, standard schedules, performance charts,
36 instructions, brochures, diagrams and other information furnished by the
37 Contractor to illustrate a material, product or system for some portion of
38 the Work. Samples are physical examples that illustrate materials,
39 equipment or workmanship, and establish standards by which the work
40 will be judged.

41
42 2. The Contractor shall prepare, review, approve and submit to the Project
43 Manager, with reasonable promptness and in such sequence as to cause
44 no delay in the Work or in the work of the Owner or any separate
45 contractor, all Shop Drawings, Product Data and Samples required by the
46 Contract Documents.

47
48 3. By preparing, approving and submitting Shop Drawings, Product Data and
49 Samples, the Contractor represents that the Contractor has determined
50 and verified all materials, field measurements and field construction
51 criteria related thereto, or will do so with reasonable promptness, and has
52 checked and coordinated the information contained within such submittals

1 with the requirements of the Work, the Project, the Work Order and the
2 Contract Documents.

- 3
- 4 4. The Contractor shall not be relieved of responsibility for any deviation from
5 the requirements of the Contract Documents by the Architect's review of
6 Shop Drawings, Product Data or Samples, unless the Contractor has
7 specifically informed the Project Manager in writing of such deviation at
8 the time of submission and the Architect has reviewed the specific
9 deviation. The Contractor shall not be relieved from responsibility for
10 errors or omissions in the Shop Drawings, Product Data or Samples by
11 the Architect's review of them.
- 12
- 13 5. When professional certification of performance criteria of materials,
14 systems or equipment is required by the Contract Documents, the
15 Architect shall be entitled to rely upon the accuracy and completeness of
16 such calculations and certifications. The cost of such certifications shall be
17 borne by the Contractor. Owner may elect to have an independent
18 certification performed at its own expense. The Owner shall have final
19 approving authority for performance-based items.
- 20
- 21 6. The Contractor shall direct specific attention, in writing or on resubmitted
22 Shop drawings, Product Data, or Samples, to revisions other than those
23 requested by the Architect on previous submittals.
- 24
- 25 7. No portion of the Work requiring submission of a Shop Drawing, Product
26 Data or Sample shall be commenced until the submittal has been reviewed
27 by the Architect. All such portions of the Work shall be in accordance with
28 reviewed submittals.
- 29
- 30 8. Submission of Shop Drawings and Samples to the Project Manager is
31 required for only those items specifically mentioned in the Specification
32 Sections. If Contractor submits Shop Drawings for items other than the
33 above, the Project Manager will not be obligated to distribute or review
34 them. Contractor shall be responsible for the procuring of Shop Drawings
35 for his/her own use as he/she may require for the progress of the Work.
- 36
- 37 9. The term "Shop Drawings" as used herein also includes but is not limited
38 to fabrication, erection, layout and setting drawings, manufacturer's
39 standard drawings, descriptive literature, catalogs, brochures,
40 performance and test data, wiring and control diagrams, all other drawings
41 and descriptive data pertaining to materials, equipment, piping, duct and
42 conduit systems, and methods of construction as may be required to show
43 that the materials, equipment or systems and the positions and layout of
44 each conform to the Contract requirements. As used herein the term
45 "manufactured" applies to standard units usually mass-produced, and the
46 term "fabricated" means items specifically assembled or made out
47 of- selected materials to meet individual design requirements. Shop
48 Drawings shall establish the actual detail of all manufactured or fabricated
49 items; indicate proper relation to adjoining work; amplify design details of
50 mechanical and electrical equipment in proper relation to physical spaces
51 in the structure; and incorporate minor changes of design or construction
52 to suit actual conditions.

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10. Drawings: Following Contractor's review and approval, Contractor shall submit to the Project Manager for approval four (4) minimum to six (6) maximum prints and/or pdf submission of the same information via email. (Required delivery methods and quantities of submittals will be determined at the time of the Pre-Construction Meeting). The Project Manager will check the submittal to see if it is complete. If complete, the Project Manager will forward the drawings to the Owner and the Architect. The Architect and Owner will check the drawings and note Architect and Owner comments and affix a stamp to the drawings indicating the status of acceptance, and will return same to the Project Manager, each retaining prints for his/her records. The Architect or his/her consultants, as applicable, will review the Shop Drawings; mark the prints with required revisions; stamp the prints and indicate "No Exceptions Taken", "Make Corrections Noted", "Revise and Resubmit", "Submit Specified Item", or "Rejected", and return the prints. The Project Manager will return the prints to the Contractor. The Contractor shall then print and distribute the appropriate number of copies to his/her job personnel as required. If a drawing is stamped "Rejected" or "Revise and Resubmit", the Contractor shall correct and resubmit as outlined above. When stamped "Make Corrections Noted", or similar instructions, the Contractor shall correct and resubmit for record only, three (3) prints of each drawing. Also see Technical Specifications, Division I, General Requirements.
11. Samples: Following Contractor's review and approval, Contractor shall submit to the Architect, five (5) minimum samples of all materials in quantities and sizes as specified herein as requested by the Architect. Submittals shall be given to the Architect at a time determined by the Contractor, which allows for any necessary resubmittal and which will not cause any delay in the Work. Samples will be forwarded to the Architect. If a sample is stamped "Rejected" or "Revise and Resubmit", one sample so noted will be returned to the Contractor. The Contractor shall correct and resubmit as outlined above. If a sample is stamped "Make Corrections Noted", one sample so noted will be returned. Corrected samples shall be resubmitted for approval as per the original submittal. Also see Technical Specifications and General Requirements.
12. Brochures: Following Contractor's review and approval, Contractor shall submit to the Architect, five (5) copies of all manufacturer's catalogs or brochures as required. Brochures will be forwarded to the Architect for review. If a brochure is stamped "No Exception Taken", two (2) copies will be returned to the Contractor. If stamped "Rejected", one marked copy and two (2) unmarked copies will be returned. Corrected copies shall be resubmitted for approval as per the original submittal. Also see General Requirements.
13. Manufacturer's Instructions: Where any item or work is required by Specifications to be furnished, installed or performed in accordance with a specified product manufacturer's instructions, Contractor shall procure and distribute the necessary copies of such instructions to all concerned parties.

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

13
14 2.06 THE ARCHITECT

- 15
16 A. The Owner may delegate all or a portion of its rights and responsibilities to a
17 licensed Architect as deemed necessary per Work Order.
18
19 B. The Architect advises the Project Manager in all aspects of the construction
20 phase of the Project. The Architect's functions include advice and assistance to
21 the Project Manager in the correct interpretation and application of the Contract
22 Documents. The Architect is not authorized independently to issue Addenda,
23 Clarifications, Field Orders, Work Authorizations, or Supplemental Work Orders,
24 or in any other way to bind the Owner in discussions with the Contractor.
25
26 C. The Contractor shall deliver all correspondence relating to the proper execution
27 of the Work to the Project Manager. The Project Manager reserves the right to
28 consult with the Architect and Owner prior to responding to the Contractor's
29 correspondence.
30
31 D. When discussions between the Contractor and the Project Manager occur either
32 on the site or elsewhere, but the Architect is not present, the Project Manager
33 reserves the right to consult with the Architect and Owner prior to issuing his/her
34 final decision or instruction.
35
36 E. The Architect shall review or take other appropriate action upon the Contractor's
37 submittals such as Shop Drawings, Product Data and Samples, but only for
38 conformance with the design concept of the Work and the information given in
39 the Contract Documents. Such action shall generally be taken within ten (10)
40 working days, however under certain circumstances such as very complex
41 submittals or if large number of submittals are submitted at one (1) time it may
42 take longer. In this case the Contractor will be notified and given the opportunity
43 to advise the Architect of priorities. The Architect's review of a specific item shall
44 not indicate review of an assembly of which the item is a component.
45

46
47 2.07 THE PROJECT MANAGER

- 48
49 A. The Project Manager is the authorized representative of the Owner in all aspects
50 of administering the construction contract on behalf of the Owner. All
51 communications from and to the Contractor will be channeled through the Project
52 Manager. However, the Project Manager does not have the authority to bind the

1 Owner in matters affecting adjustments to the time or cost of the project as defined
2 in the Agreement for Construction.

3
4 B. The Project Manager will be the Owner's representative during the construction
5 and warranty periods, and until final payment to all contractors is due. The Project
6 Manager will advise and consult with the Owner. All instructions to the Contractor
7 shall be forwarded through the Project Manager. The Project Manager will have
8 authority to act on behalf of the Owner only to the extent provided in the Contract
9 Documents, unless otherwise modified by written instrument.

10
11 C. The Project Manager will be on site during construction to monitor the progress
12 and quality of the Work and to determine in general if the Work is proceeding in
13 accordance with the Contract Documents. On the basis of on-site observations
14 and communication with the Contractor, the Project Manager will keep the Owner
15 informed of the progress of the Work, and will endeavor to guard the Owner
16 against defects and deficiencies in the Work of the Contractor.

17
18 D. The Project Manager shall at all times have access to the Work wherever it is in
19 preparation and progress. The Contractor shall provide facilities for such access
20 so that the Project Manager may perform its functions under the Contract
21 Documents.

22
23 E. Based on the Project Manager's observations, and an evaluation of the
24 Contractor's Application for Payment, the Project Manager will determine the
25 amount owing to the Contractor and will issue to the Owner Certificates for
26 Payment incorporating such amount.

27
28 F. The Project Manager will be the initial interpreter of the requirements of the
29 Contract Documents and the initial judge of the performance hereunder by the
30 Contractor. The Owner will have final authority of all such matters.

31
32 G. The Project Manager will render interpretations necessary for the proper
33 execution or progress of the Work, with reasonable promptness and in
34 accordance with agreed upon time limits. Either party to the Contract may make
35 written request to the Project Manager for such interpretations.

36
37 H. Claims, disputes and other matters in question between the Contractor and the
38 Project Manager relating to the execution or progress of the Work or the
39 interpretation of the Contract Documents shall be referred to the Owner (or his/her
40 designee).

41
42 I. All interpretations and decisions of the Project Manager will be in writing or in
43 graphic form, and shall be both consistent with the intent of the Contract
44 Documents and reasonably inferable therefrom.

45
46 J. The Project Manager will have the authority to reject, or recommend to the Owner
47 the rejection, of any work that does not conform to the Contract Documents.
48 Whenever, in the Project Manager's opinion, it is considered necessary or
49 advisable for the implementation of the intent of the Contract Documents, the
50 Project Manager will have authority to require special inspection or testing of the
51 Work whether or not such work be then fabricated, installed or completed.
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K. The Project Manager will receive from the Contractor and review all Shop Drawings, Product Data and Samples, and forward same to Architect and Owner for review.

L. Following consultation with the Owner, the Project Manager will take appropriate action on changes, and will have authority to order minor changes in the Work as provided herein.

M. The Project Manager will conduct inspections to determine the date of Completion, and will receive and forward to the Owner for the Owner's review written warranties and related documents required by the Contract Documents and assembled by the Contractor. The Project Manager will issue a final Project Certificate for Payment upon compliance with the requirements for completion and final payment. The Project Manager will monitor the warranty for a period of one (1) year from and after the date of acceptance of the Work, unless otherwise specified as a longer term.

N. The duties, responsibilities and limitations of authority of the Project Manager as the Owner's representatives during construction as set forth in the Contract Documents, will not be modified or extended without written consent of the Owner, the Contractor and the Project Manager, which consent shall not be unreasonably withheld. Failure of the Contractor to respond within ten (10) business days to a written request shall constitute consent by the Contractor.

O. In case of the termination of the employment of the Project Manager, the Owner may appoint a successor Project Manager, whose status and duties under the Contract Documents shall be the same as those of the former Project Manager.

2.08 OWNER

A. Information and Services Required of the Owner

1. Unless otherwise provided in the Contract Documents, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for the construction, use or occupancy of permanent structures or for permanent changes in existing facilities.
2. Information or services under the Owner's control shall be furnished by the Owner with reasonable promptness to avoid delay in the orderly progress of the Work.
3. The Owner shall forward all instructions to the Contractor through the Project Manager.

B. Owner's Right to Stop the Work

If the Contractor fails to correct defective work as required by Section 2.42 herein or persistently fails to carry out the Work in accordance with the Contract Documents, the Owner, by a written order signed personally or by an agent specifically so empowered by the Owner in writing, may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been

1 eliminated; however, this right of the Owner to stop the Work shall not give rise to
2 any duty on the part of the Owner to exercise this right for the benefit of any
3 contractor or any other person or entity, except to the extent required by Section
4 2.12.C.
5

6 C. Owner's Right to Carry Out the Work
7

8 If the Contractor defaults or neglects to carry out the Work in accordance with the
9 Contract Documents, and fails after written notice from the Owner to correct such
10 default or neglect with diligence and promptness, the Owner may, after an
11 additional written notice and without prejudice to any other remedy the Owner may
12 have, make good such deficiencies. In such case an appropriate Supplemental
13 Work Order shall be issued deducting from the payments then or thereafter due
14 the Contractor the cost of correcting such deficiencies, including compensation
15 for the additional services of the Architect or other professionals made necessary
16 by such default, neglect or failure. Such action by the Owner and the amount
17 charged to the Contractor are both subject to the prior approval of the Architect.
18 If the payments then or thereafter due the Contractor are not sufficient to cover
19 such amount, the Contractor shall pay the difference to the Owner, or Owner may
20 require payment by the surety on the performance or warranty bonds as
21 appropriate. Such action shall, in no way, affect the status of either party under
22 contract, nor be held as a basis of any claim by the Contractor for damages or
23 extension of time.
24

25 D. Award of Individual Work Orders
26

27 The Owner may award an individual Work Order to any selected Contractor.
28 Selection of the Contractor and award of the Work Order will be in compliance
29 with established Owner procedures and based on one or more of the following
30 criteria:
31

- 32 1. Rotational selection among all Contractors, unless otherwise determined
33 by the Owner.
34
- 35 2. Evaluation of past and current performance on Work Orders of a similar
36 nature and type of work, project size, construction management
37 challenges, schedule performance, design management requirements,
38 etc.
39
- 40 3. Balancing of work load (Work Order dollar volume and construction
41 backlog) among Contractors.
42
- 43 4. Management of Work Order dollar volume within bonding limitations of the
44 Contractor.
45
- 46 5. Price, as it relates to the Owner's independent cost estimate.
47
- 48 6. Contractor's responsiveness to the Owner on Work Orders.
49
- 50 7. Other appropriate criteria as deemed in the best interest of the Owner.
51
52

1 2.09 CONTRACTOR RESPONSIBILITIES

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3 A. Procedure for Developing a Work Order

4
5 As the need exists, the Owner will notify the Contractor of a Project, schedule a
6 Joint Scope Meeting and issue a Notice of Joint Scope Meeting. The Contractor
7 shall attend the Joint Scope Meeting and discuss, at a minimum:

- 8
9 1. the general scope of the work;
10
11 2. alternatives for performing the work and value engineering;
12
13 3. access to the site and protocol for admission;
14
15 4. hours of operation;
16
17 5. staging area;
18
19 6. requirements for catalog cuts, technical data, samples and shop drawings;
20
21 7. requirements for professional services, sketches, drawings, and
22 specifications;
23
24 8. construction duration;
25
26 9. liquidated damages;
27
28 10. the presence of hazardous materials;
29
30 11. date on which Proposal is due.

31
32 Upon completion of the joint scoping process, the Owner will prepare a draft
33 Detailed Scope of Work referencing any sketches, drawings, photographs, and
34 specifications required to document accurately the work to be accomplished. The
35 Contractor shall review the Detailed Scope of Work and request any required
36 changes or modifications. When an acceptable Detailed Scope of Work has been
37 prepared, the Owner will issue a Request for Proposal that will require the
38 Contractor to prepare a Work Order Proposal. The Detailed Scope of Work,
39 unless modified by both the Contractor and the Owner, will be the basis on which
40 the Contractor will develop its Work Order Package and the Owner will evaluate
41 the same. The Contractor does not have the right to refuse to perform any task or
42 any work in connection with a particular Project.

43
44 The Owner may, at this option, include quantities in the Detailed Scope of Work if
45 it helps to define the Detailed Scope of Work, if the actual quantities required are
46 not known or cannot be determined at the time the Detailed Scope of Work is
47 prepared, if the Contractor and the Owner cannot agree on the quantities required,
48 or for any other reason as determined by the Owner. In all such cases, the Owner
49 shall issue a Supplemental Job Order adjusting the quantities appearing in the
50 Detailed Scope of Work to the actual quantities.

51
52 B. Preparation of the Price Proposal

Contract No.: #23-J-05
23-J-06
23-J-07
23-J-08

General Conditions
00 72 00-12

GENERAL BUILDING
JOB ORDER CONTRACTS

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

1. Pre-priced Tasks: A Pre-priced Task is a task described and for which a Unit Price is set forth in the Construction Task Catalog[®]. For Pre-priced Tasks the Contractor shall identify the task and quantities required from the Construction Task Catalog[®].
2. Non Pre-priced Tasks: Units of work not included in the Construction Task Catalog[®], but within the general scope and intent of this Contract, may be negotiated into this Contract as needs arise. Such work requirements shall be incorporated into and made a part of this Contract for the Work Order to which they pertain, and may be incorporated into the Construction Task Catalog[®] if determined appropriate by the County at the negotiated price. Non Pre-Priced Tasks shall be separately identified and submitted in the Proposal.
 - a. The Contractor shall break down any Non Pre-price item if the labor, material or equipment required to accomplish the Non Pre-priced task can be used out of the Construction Task Catalog[®] at a pre-price rate times the Bidder's appropriate Adjustment Factor. Whether a Work requirement is Pre-priced or Non Pre-priced is a final determination by the County, binding and conclusive on the Contractor.
 - b. Information submitted in support of Non Pre-priced work shall include, but not be limited to, the following: Complete specifications and technical data, including work unit content, work unit costs data, schedule requirements; quality control and inspection requirements. Pricing data submitted in support of Non Pre-Priced Tasks shall include a cost or price analysis report, establishing the basis for selecting the approach proposed to accomplish the requirements. Unless otherwise directed by the County, cost data shall be submitted demonstrating that the Contractor solicited and received three bids. The Contractor shall provide an installed unit price (or demolition price if appropriate), which shall include all costs required to accomplish the Non Pre-priced Task.
 - c. The final price submitted for Non Pre-priced Tasks shall be according to the following formula:

Contractor Performed Duties

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

B = Equipment costs (other than small tools)

C = Three independent quotes for all materials

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

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 Costs of Non Pre-Priced Task = D x Normal Hours Adjustment Factor

- d. After a Non Pre-priced Task has been approved by the Owner, 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 Owner'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.
3. 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 Owner 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.
4. 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.
5. Design requirements will be determined by the scope of work defined in each Work Order. If the level of Architect/Engineer services for a Work Order requires stamped plans and specifications for the development of the Detailed Scope of Work, the Owner shall be responsible to prepare them. As needed, the contractor may assist with the development of the scope through one or more joint scope meetings and subsequent review of the prepared documents. All shop drawings, submittals and similar documents required in connection with a particular Work Order are considered to be incidental to the Contract and included in the Contractor's Adjustment Factors.
6. The Contractor's Price Proposal shall include, at a minimum:

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- a. Price Proposal;
 - b. Back Up for Non Pre-priced Tasks;
 - c. Any other documentation requested by the Owner.
7. The Contractor's Price Proposal shall be submitted by the date indicated on the Request for Proposal. All incomplete Price Proposals shall be rejected. The time allowed for preparation of the Contractor's Price Proposal will depend on the complexity and urgency of the Work Order but should average between seven (7) and fourteen (14) days. On complex Work Orders, such as Work 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.
8. By submitting a Price Proposal to the Owner, 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 Owner.
9. If the Contractor requires clarifications or additional information regarding the scope of work in order to prepare the Price Proposal, the request must be submitted so that the submittal of the Price Proposal is not delayed.
- C. Review of the Price Proposal
1. If the Owner finds the Contractor's Price Proposal unacceptable, the Owner may request the Contractor to re-submit its Price Proposal or cancel the Work Order. After the Owner has reviewed the Price Proposal and an agreement has been reached between the Owner and the Contractor as to the nature of the revisions, if any, the Contractor is not allowed to make any changes to the revised Price Proposal other than the agreed upon changes. Unless otherwise specified by the Owner, if the Contractor is required to resubmit the Price Proposal, the revised Price Proposal is due no later than 48 hours after the changes have been agreed upon.
2. The Contractor may choose the means and methods of construction; subject however, to the Owner's right to reject any means and methods proposed by the Contractor that:
- a) Will constitute or create a hazard to the work, or to persons or property; or
 - b) Will not produce finished Work in accordance with the terms of the Contract; or
 - c) Unnecessarily increases the price of the Work Order when alternative means and methods are available; or

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d) Deviates from the Detailed Scope of Work.

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

D. Preparation of the Proposal Package:

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

2. The Proposal Package shall include:

a. Price Proposal as agreed to

b. Final back-up for any Non Pre-priced Tasks (if applicable)

c. Subcontractor List, including:

i. The name, license number and the location of the place of business of each subcontractor who will perform work or labor or render service to the general contractor in or about the construction of the work or improvement in an amount in excess of one-half (1/2) of one percent (1%) of the general contractor's total proposal amount, and

ii. The portion of the work which will be done by each subcontractor.

iii. The attention of bidders is directed to the provisions of Public Contract Code Section 4100 et seq which set forth the consequences and possible penalties which may result from a failure to comply strictly with the foregoing requirements for listing of subcontractors.

d. Final drawings, calculations, specifications (if applicable)

e. Final catalog cuts, (if applicable)

f. Special insurance, (if applicable)

g. For Special equipment and installations, a copy of the warranty document (if applicable)

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- h. Any other documentation required for the Work Order as indicated on the RFP (if applicable)
 - 3. By submitting a Proposal Package to the Owner, the Contractor is agreeing to accomplish the Work outlined in the Request For Proposal and the Detailed Scope of Work for that particular Work Order.
- E. Review of the Proposal Package and Issuance of the Work Order:
 - 1. The Owner will evaluate the entire Proposal Package.
 - 2. The Owner reserves the right to reject a Contractor's Proposal Package based on inadequate documentation, unacceptable subcontractors, or other inconsistencies on the Contractor's part.
 - 3. The Owner reserves the right to reject a Price Proposal or cancel a Project for any reason. The Owner also reserves the right not to issue a Work Order if it is determined to be in the best interests of the Owner. The Owner may perform such work by other means. The Contractor shall not recover any costs arising out of or related to the development of the Work Order including but not limited to the costs to attend the Joint Scope Meeting, review the Detailed Scope of Work, prepare a Proposal (including incidental architectural and engineering services), subcontractor costs, and the costs to review the Work Order Proposal with the Owner.
 - 4. Each Work Order provided to the Contractor shall reference the Detailed Scope of Work and set forth the Work Order Price and the Work Order Completion Time. All clauses of this Contract shall be applicable to each Work Order. The Work Order, signed by the Owner and delivered to the Contractor constitutes the Owner's acceptance of the Contractor's Proposal Package. A signed copy of the Work Order will be provided to the Contractor.
 - 5. In the event that immediate emergency response is necessary, the Contractor shall be required to follow alternative procedures as established by the Owner. The Contractor shall begin work as directed notwithstanding the absence of a fully developed Request for Proposal, Detailed Scope of Work, or Work Order. The Contractor shall be compensated in accordance with the Construction Task Catalog® and Non Pre-priced Tasks as if the work had been ordered under the standard procedures.
- F. Review of Contract Documents and Field Conditions
 - 1. The Contractor shall carefully study and compare the Contract Documents and shall at once report to the Project Manager any discrepancy or inconsistency that may be discovered. The Contractor shall not be liable to the Owner or the Project Manager for any damage resulting from any such inconsistencies or discrepancies in the Contract Documents unless the Contractor recognized such inconsistencies or discrepancies and knowingly failed to report it to the Project Manager, or the Contractor was

1 responsible for the preparation of the Contract Documents. The
2 Contractor shall perform no portion of the Work at any time unless
3 authorized by the Contract Documents or, where required, approved Shop
4 Drawings, Product Data or Samples for such portion of the Work.
5

- 6 2. Neither the Owner nor the Project Manager or Architect assume any
7 responsibility for an understanding or representation made by any of their
8 agents or representation prior to the execution of the Agreement unless
9 (1) such understanding or representations are expressly stated in the
10 Agreement, and (2) the Agreement expressly provides that responsibility
11 therefore is assumed by the Owner.
12
- 13 3. Failure by the Contractor to acquaint himself/herself with all available
14 information will not relieve him/her from responsibility for estimating
15 properly the difficulty or cost of successfully performing the Work.
16
- 17 4. The Contractor shall take field measurements and verify field conditions
18 and shall carefully compare such field measurements and conditions and
19 other information known to the Contractor with the Contract Documents
20 before commencing activities. Any inconsistencies or discrepancies
21 discovered by the Contractor shall be reported to the Project Manager at
22 once.
23
- 24 5. Before submitting any Request for Information (RFI), or other contractor
25 initiated request for information, the Contractor shall determine that the
26 information requested is not clearly provided in the Contract Documents.
27 RFI's shall be submitted to the Project Manager only from the Contractor,
28 or Owner, and not from any subcontractor, supplier or other vendor, and
29 shall be on a form approved by the Project Manager. The Contractor shall
30 provide a revised and updated RFI Priority Schedule on a weekly basis.
31 The RFI Priority Schedule shall rank RFI's in order of priority and include
32 a brief statement of reason for priority. Owner initiated RFI's will not be
33 listed on the Contractor's RFI Priority Schedule. The Owner will provide
34 the Architect or Engineer a separate list of Owner initiated RFI's upon
35 request of the Architect or Engineer. The Architect or Engineer will
36 endeavor to respect the order of priorities as requested by the Contractor
37 or Owner for the overall benefit of the Project. The RFI process is for
38 information and clarification only and may not be utilized to obtain approval
39 for changes in Work Order Price or time. Also see Division 01 - General
40 Requirements.
41

42 G. Supervision Procedures

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- 44 1. The Contractor shall efficiently supervise and direct the Work, using
45 therein the Contractor's best skill and diligence for which he/she is
46 remunerated in the Work Order Price. He/She shall carefully inspect the
47 site and study and compare the Contract Documents, as ignorance of any
48 phase of any of the features or conditions affecting the Contract will not
49 excuse him/her from carrying out its provisions to its full intent.
50
- 51 2. The Contractor shall employ a competent superintendent and necessary
52 assistants who shall be in attendance at the project site during the

1 progress of the Work. The superintendent shall represent the Contractor
2 and all communications given to the superintendent shall be as binding as
3 if given to the Contractor. Important communications shall be confirmed in
4 writing. Other communications shall be so confirmed upon written request
5 in each case. The Superintendent who begins the project shall remain on
6 the project until the project is completed, as long as the Contractor
7 employs that person. The Superintendent shall not be replaced without the
8 approval of the Owner.
9

- 10 3. The Contractor shall be responsible to the Owner for the acts and
11 omissions of his/her employees, subcontractors and their agents and
12 employees, and other persons performing any of the Work under a
13 contract with the Contractor.
14
15 4. The Contractor shall at all times enforce strict discipline and good order
16 among his/her employees and shall not employ on the Work any unfit
17 person or anyone not skilled in the task assigned to him/her.
18
19 5. The Contractor shall not be relieved from his/her obligations to perform
20 the Work in accordance with the Contract Documents either by the
21 activities or duties of the Owner or the Architect or Engineer in his/her
22 administration of the Contract, or by inspections, tests or approvals
23 required or performed by persons other than the Contractor.
24
25 6. Contractor shall alert and inform their employees that State law requires
26 that the identities of inmates/wards/patients/clients be kept confidential.
27 Revealing the identities of inmates/wards/patients/clients is punishable
28 by law.
29

30 H. Construction Procedures
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- 32 1. For any work that takes place within secured facilities: All access to the
33 construction site shall be coordinated with the appropriate Fresno County
34 department as identified in the Detailed Scope of Work. Security
35 background checks will be required for any employee that performs work
36 within the secure perimeter of a facility. Security background forms can
37 be obtained from the Project Manager. After the acceptance of the
38 Contractor's Work Order Proposal but prior to the Notice to Proceed and
39 the commencement of work, the forms for all required persons shall be
40 submitted to the appropriate department for review. Vendor badges
41 and/or other forms of identification will then be issued which must be
42 worn at all times while within the secured areas of the site. The costs for
43 the required background checks will be borne by the County.
44
45 2. Means and Methods - The Contractor shall be solely responsible for and
46 control of construction means, methods, techniques, sequences,
47 coordination and procedures for all the Work of this contract. Additionally,
48 he/she shall be responsible for safety precautions and programs in
49 connection with the Work.
50
51 3. The Contractor shall coordinate all work with the Project Manager to
52 minimize any interruptions to the normal operation of any affected

1 facilities; particularly interruptions to air conditioning, electrical services,
2 alarm systems, communications and computer systems. The Contractor
3 shall be responsible for all costs incurred by the Owner on a system as a
4 result of work by the Contractor or damage caused by the Contractor's
5 operations, including costs associated with false fire alarms caused by
6 Contractor's operations.
7

- 8 4. Laws of County and State - The Contractor must comply with all laws,
9 rules, regulations, provisions and ordinances of the County in which the
10 Work is being done, and all State laws pertaining to the Work.
11
12 5. Safeguards - The Contractor shall provide, in conformity with all local
13 codes and ordinances and as may be required, such temporary walls,
14 fences, guard-rails, barricades, lights, danger signs, enclosures, etc., and
15 shall maintain such safeguards until all work is completed.
16
17 6. Housekeeping - Contractor shall keep the premises free of excess
18 accumulated debris. Clean up as required and as directed by the Project
19 Manager. At completion of work all debris shall be removed from the site.
20 Refer to General Requirements for additional requirements.
21
22 7. Labor and Materials - Unless otherwise provided in the Contract
23 Documents, the Contractor shall provide and pay for all labor, materials,
24 equipment, tools, construction equipment and machinery, water, heat,
25 utilities, transportation, and other facilities and services necessary for the
26 proper execution and completion of the Work, whether temporary or
27 permanent and whether or not incorporated or to be incorporated in the
28 Work.
29
30 8. The Contractor shall deliver to the Project Manager, prior to final
31 acceptance of the Work as a whole, signed certificates from suppliers of
32 materials and manufactured items stating that such items conform to the
33 Contract Documents.
34
35 9. The Contractor, immediately upon Notice to Proceed of each individual
36 Work Order (or where shop drawings, samples, etc., are required,
37 immediately upon receipt of review thereof) shall place orders for all
38 materials, work fabrication, and/or equipment to be employed by him/her
39 in that portion of the Work contracted for. The Contractor shall keep all
40 materials, work fabrications and/or equipment specified and shall advise
41 the Project Manager promptly, in writing, of all orders placed and of such
42 materials, work fabrications and/or equipment which may not be available
43 in a timely manner for the purposes of the Contract.
44
45 10. Any worker whose work is unsatisfactory to the Owner or the Architect or
46 Engineer, or are considered by the Owner or Architect or Engineer to be
47 careless, incompetent, unskilled or otherwise unfit shall be dismissed from
48 work under the Contract upon written request to the Contractor from the
49 Owner or the Architect or Engineer.
50
51 11. Temporary Facilities – Contractor may connect to existing water and
52 electricity available on the site provided it is suitable to the Contractor's

1 requirements. Water and electricity used will be paid by the Owner.
2 Contractor shall bear all expenses for carrying the water or electricity to
3 the appropriate locations and to connect or tap into existing lines. Toilet
4 facilities may be available on a site to the workmen engaged in the
5 performance of this contract. It shall be the responsibility of the Contractor
6 to confirm with the Owner the availability of toilet facilities on the site. The
7 use of such facilities may be revoked in the event of excess janitorial
8 requirements.
9

10 12. Contractor shall not perform any fire hazardous operation adjacent to
11 combustible materials. Any fire hazardous operation shall have proper fire
12 extinguisher close by and the adjacent area shall be policed before
13 stopping work for the day. Contractor shall provide not less than one
14 OSHA/NFPA Class 6-ABC fire extinguisher for each 9,000 square feet of
15 project area or fraction thereof.
16

17 13. Contractor shall erect temporary dust separation partitions and floor mats
18 as necessary to confine dust and debris within area of work. Contractor
19 shall post signs, erect and maintain barriers and warning devices for the
20 protection of the general public and Owner personnel. The Contractor
21 shall provide adequate protection for all parts of the present building and
22 its contents and occupants wherever work under this contract is to be
23 performed. The Contractor shall observe that the health and welfare of
24 occupants of the existing building may be affected by noises and fumes
25 produced by the construction. Insofar as is possible, loud and
26 unnecessary noise is to be avoided and noise producing work should be
27 performed as far away from occupied areas as is consistent with the
28 efficient conduct of the work.
29

30 14. Trenching and Excavation - In accordance with Section 7104 of the
31 California Public Contract Code, the following provisions shall apply to any
32 contract involving digging of trenches or other excavations that extend
33 deeper than four feet below the surface:
34

35 a. The contractor shall promptly, and before the following conditions
36 are disturbed, notify the Owner, in writing, of any:
37

38 i. Material that the contractor believes may be material that is
39 hazardous waste, as defined in Section 25117 of the Health
40 and Safety Code that is required to be removed to a Class
41 I, Class II, or Class III disposal site in accordance with
42 provisions of existing law.
43

44 ii. Subsurface or latent physical conditions at the site differing
45 from those indicated.
46

47 iii. Unknown physical conditions at the site of any unusual
48 nature, different materially from those ordinarily
49 encountered and generally recognized as inherent in work
50 of the character provided for in the contract.
51

1 b. The Owner shall promptly investigate the conditions, and if it finds
2 that the conditions do materially so differ, or do involve hazardous
3 waste, and cause a decrease or increase in the contractor's cost
4 of, or the time required for, performance of any part of the work,
5 shall issue a Supplemental Work Order in accordance with the
6 provisions of Section 2.09 of the General Conditions.
7

8 c. In the event that a dispute arises between the Owner and the
9 contractor whether the conditions materially differ, or involve
10 hazardous waste, or cause a decrease or increase in the
11 contractor's cost of, or time required for, performance of any part
12 of the work, the contractor shall not be excused from any
13 scheduled completion date provided for by the contract, but shall
14 proceed with all work to be performed under the contract. The
15 contractor shall retain any and all rights provided either by contract
16 or by law which pertain to the resolution of disputes and protests
17 between the contracting parties.
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20 2.10 SUBCONTRACTORS
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22 A. Agreements - Agreements between the Contractor, Subcontractors, and
23 Subcontractors of lower tier shall be subject to the approval of the Owner, but in
24 no case does such approval relieve the Contractor of any conditions imposed by
25 the Contract Documents. The Contractor shall only use subcontractors included
26 in his/her Work Order Proposal unless first approved by the Owner pursuant to
27 statute. The Contractor shall not use any subcontractor who is ineligible to perform
28 work on a Public Works Project pursuant to section 1777.1 or 1777.7 of the Labor
29 Code. Notwithstanding any other provision of the Contract Documents,
30 subcontractors may be added, deleted or substituted only in accordance with the
31 provisions of Public Contract Code Section 4100 et seq.
32

33 B. Relation with Subcontractor – By an appropriate agreement, written where legally
34 required for enforceability, the Contractor shall bind every Subcontractor and
35 require therein that every Subcontractor agrees to be bound by the terms of the
36 Contract Documents to carry out their provisions insofar as applicable to their
37 work; and the Contractor further agrees to pay to each Subcontractor promptly
38 upon issuance of Certificate of Payment, his/her or their due portion. Said
39 agreement shall preserve and protect the rights of the Owner and the Architect
40 under the Contract Documents with respect to the work to be performed by the
41 Subcontractor so that the subcontracting thereof will not prejudice such rights, and
42 shall allow to the Subcontractor, unless specifically provided otherwise in the
43 Contractor-Subcontractor Agreement, the benefit of all rights, remedies and
44 redress against the Contractor that the Contractor, under the Contract
45 Documents, has against the Owner. Where appropriate, the Contractor shall
46 require each Subcontractor to enter into similar agreements with their Sub-
47 subcontractors. The Contractor shall make available to each proposed
48 Subcontractor, prior to the execution of the Subcontract, copies of the Contract
49 Documents to which the Subcontractor will be bound by this Paragraph and
50 identify to the Subcontractor any terms and conditions of the proposed
51 Subcontract which may be at variance with the Contract Documents. Each
52 Subcontractor shall similarly make copies of Contract Documents available to

1 their Sub-subcontractors. Nothing contained herein shall be deemed to create an
2 agency relationship between the Owner and any Subcontractor or material
3 supplier.
4

5 C. Owner's Relation - Neither the acceptance of the name of Subcontractor nor the
6 suggestion of such name nor any other act of the Owner or Architect nor anything
7 contained in any Contract Document is to be construed as creating any
8 contractual relation between the Owner (or Owner's authorized representatives)
9 and any Subcontractor of any tier nor as creating any contractual relation between
10 the Architect and any Subcontractor of any tier.
11

12 D. All Subcontractors employed by the Contractor shall be appropriately licensed in
13 conformity with the laws of the State of California.
14

15 E. Jurisdictional disputes between Subcontractors or between Contractor and
16 Subcontractor shall not be mediated or decided by the Owner or the Architect.
17 The Contractor shall be responsible for the resolution of all such disputes based
18 upon his/her contractual relationship with his/her Subcontractors.
19

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21 2.11 OWNER'S RIGHT TO PERFORM WORK AND TO AWARD SEPARATE
22 CONTRACTS
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24 A. The Owner reserves the right to perform work related to the Project with the
25 Owner's own forces, and to award separate contracts in connection with other
26 portions of the Project or other work on the site under these or similar Conditions
27 of the Contract. If the Contractor claims that the Owner's action results in delay,
28 damage or additional cost attributable thereto, the Contractor shall make such
29 claim as provided elsewhere in the Contract Documents.
30

31 B. When separate contracts are awarded for different portions of the Project or other
32 work on the site, the term Contractor in the Contract Documents in each case
33 shall mean the Contractor who executes each separate Owner-Contractor
34 Agreement.
35

36 C. The Owner shall provide for coordination of the activities of the Owner's own
37 forces and of each separate contractor with the Work of the Contractor, who shall
38 cooperate with them. The Contractor shall participate with other separate
39 contractors and the Owner in reviewing their construction schedules when
40 directed to do so. The Contractor shall make any revisions to the construction
41 schedule deemed necessary after a joint review and mutual agreement. The
42 construction schedules shall then constitute the schedules to be used by the
43 Contractor, separate contractors and the Owner until subsequently revised.
44

45 D. Unless otherwise provided in the Contract Documents, when the Owner performs
46 construction or operations related to the Project with the Owner's own forces, the
47 Owner shall be deemed to be subject to the same obligations and to have the
48 same rights which apply to the Contractor under the Conditions of the Contract.
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51 2.12 MUTUAL RESPONSIBILITY
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- A. The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.
- B. When any part of the Contractor's Work depends upon proper execution or results of the work of the Owner or any separate contractor, the Contractor shall, prior to proceeding with the Work, promptly report to the Project Manager any apparent discrepancies or defects in such other work that render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acceptance of the Owner's or separate contractor's work as fit and proper to receive the Work, except as to defects which may subsequently become apparent in such work by others.
- C. If, following the reporting of any discrepancy or defect as required herein above, the Contractor suffers damage due to disruption or delay caused by the separate contractor, without fault by the Owner, the Contractor's remedy shall be limited to seeking recovery from the separate contractor.
- D. Any costs caused by defective or ill-timed work shall be borne by the Contractor responsible therefor.
- E. Should the Contractor cause damage to the work or property of the Owner, or to other work or property on the site, the Contractor shall promptly remedy such damage as provided herein.
- F. Should the Contractor wrongfully delay or cause damage to the work or property of any separate contractor, the Contractor shall, upon due notice, promptly attempt to settle with such other contractor by agreement, or otherwise to resolve the dispute. If such separate contractor sues the Owner on account of any delay or damage alleged to have been caused by the Contractor, the Owner shall notify the Contractor who shall defend such proceedings, and if any judgment or award against the Owner (or Owner's authorized representatives) arises therefrom, the Contractor shall pay or satisfy such judgment or award in full and shall reimburse the Owner for all costs which the Owner has incurred in connection with such matter.

2.13 OWNER'S RIGHT TO CLEAN UP

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

2.14 GOVERNING LAW

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

2.15 INSPECTION

Contract No.: #23-J-05
23-J-06
23-J-07
23-J-08

General Conditions
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GENERAL BUILDING
JOB ORDER CONTRACTS

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- A. All material and workmanship (if not otherwise designated by the Contract Documents) shall be subject to inspection, examination, and test by the Owner and Project Manager at any and all times during manufacture and/or construction and at any and all places where such manufacture and/or construction are carried on. The Owner and Project Manager shall have the right to reject defective material and workmanship or require its correction.
- B. The Contractor shall furnish promptly without additional charge, all reasonable facilities, labor, and materials necessary for the safe and convenient inspection and tests that may be required by the Owner and Project Manager.
- C. Where the Contract Documents, instructions by the Owner, laws, ordinances, or any public authority having jurisdiction requires work to be inspected, tested or approved before work proceeds, such work shall not proceed, nor shall it be concealed prior to inspection.
- D. The Contractor shall give the Project Manager at least two (2) business days advance notice of the readiness for any Contract compliance inspection by the Inspector. The Contractor shall give notice as required by all other inspecting and testing agencies of jurisdiction for Code and regular compliance inspection. In all cases, the Contractor shall schedule inspections so as not to delay the Work.
- E. If the Project Manager determines that any work requires additional special inspection beyond that identified in the specifications, the Project Manager will, upon written authorization from the Owner, instruct the Contractor to order such special inspection, testing or approval, and the Contractor shall give notice as provided above. If such special inspection or testing reveals a failure of the Work to comply with the requirements of the Contract Documents, the Contractor shall bear all costs thereof, including compensation for the Project Manager's additional services, testing or inspections made necessary by such failure; otherwise the Owner shall bear such costs, and an appropriate Supplemental Work Order shall be issued.
- F. Should it be considered necessary or advisable by the Project Manager at any time either before acceptance of the entire Work or after acceptance and within the guaranty period to make an examination of work already completed, by removing or tearing out same, the Contractor shall on request promptly furnish all necessary facilities, labor, and material. If such work is found to be defective in any material respect, due to the fault of the Contractor or his/her Subcontractors, he/she shall defray all the expenses of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the contract, any compensation deemed appropriate shall be handled by issuance of a Contract Change Order to the Contractor and he/she shall, in addition, if completion of the work has been delayed thereby, be granted a suitable extension of Work Order Time on account of the additional work involved.
- G. Required certificates of inspection, testing or approval shall be secured by the Contractor and the Contractor shall promptly deliver them to the Project Manager for review and evaluation of compliance with the appropriate specifications and standards.

1 H. When the work is completed the Contractor shall notify the Project Manager in
2 writing that the work will be ready for final inspection and test on a definite date
3 which shall be stated in such notice.
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5
6 2.16 TAXES, PERMITS, FEES, AND INDEMNIFICATION FOR PATENT INFRINGEMENT
7 CLAIM
8

9 A. The Contractor shall pay for and include all Federal, State and local taxes direct
10 or indirect for the work or portions thereof provided by the Contractor which are
11 legally enacted at the time the Notice to Proceed is issued, whether or not yet
12 enacted, and secure and pay all fees and charges for permits and licenses, unless
13 otherwise specified.
14

15 B. Royalty and license fees incidental to the use of any patented material, device or
16 process shall be paid by the Contractor and in the event of a claim of alleged
17 infringement of patent copyright, or Trade Secret rights, the Contractor shall
18 indemnify, save the Owner (and Owner's authorized representatives) free and
19 harmless, and defend, at the Contractor's own expense, any and all suits that may
20 be brought in such connection.
21

22 C. Unless otherwise provided in the Contract Documents, the Owner shall secure
23 and pay for the building permit, permanent utility connection fees, and right-of-
24 way encroachment permit. The Contractor shall secure and pay for temporary
25 construction utilities, and all other permits and governmental fees, licenses and
26 inspections necessary for the proper execution and completion of the Work.
27

28 D. The Contractor shall give all notices and comply with all laws, ordinances, rules,
29 regulations and lawful orders of any public authority bearing on the performance
30 of the Work.
31

32 E. It is not the responsibility of the Contractor to make certain that the Contract
33 Documents are in accordance with applicable laws, statutes, building codes and
34 regulations. If the Contractor observes that any of the Contract Documents are
35 at variance therewith in any respect, the Contractor shall promptly notify the
36 Project Manager in writing, and any necessary changes shall be accomplished by
37 appropriate Modification.
38

39 F. If the Contractor performs any work knowing it to be contrary to any laws,
40 ordinances, rules and regulations, without notice to the Project Manager, the
41 Contractor shall assume full responsibility therefore and shall bear all costs
42 attributable thereto.
43

44 G. Any reference in the Contract Documents to codes, standard specifications or
45 manufacturer's instructions shall mean the latest printed edition of each in effect
46 at the Contract date.
47

48
49 2.17 CONTRACTOR'S CONSTRUCTION SCHEDULE
50

51 A. Within seven (7) calendar days after receipt of Notice to Proceed for each
52 individual Work Order, the Contractor shall submit a Construction Schedule in

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1 CPM (Critical Path Method) form to the Project Manager for approval. The
2 Construction Schedule shall be sufficiently detailed to accurately depict all the
3 work required by the Contract. CPM Construction Schedule shall reflect shop
4 drawings; submittals due and return dates, fabrication and delivery times, cost
5 loading, crew mix, and equipment loading data. The Contractor shall thereafter
6 adhere to the Construction Schedule, as updated monthly, or as necessary in
7 accordance with the Contract Documents including any scope changes, or
8 changes in the work approved by the Owner during the course of construction.
9 "Slack" or "float" time on the CPM Construction Schedule is neither for the sole
10 benefit of the Owner or Contractor.
11

12
13 B. Within fourteen (14) calendar days after the pre-construction conference, the
14 Contractor shall provide a Submittal and Procurement Schedule indicating time
15 periods for review of Shop Drawings, Data, Samples, and procurement of material
16 and equipment required for the Work. Contractor shall allow time for submittal
17 review in accordance with the General Requirements Section – Construction
18 Progress Documentation. All items that require review by the Project Manager
19 and/or are not readily available from stock and requiring more than thirty-five (35)
20 days lead-time shall be included in the Submittal and Procurement Schedule.
21 Items listed in the Submittal and Procurement Schedule shall also be identified as
22 activities on the CPM Construction Schedule. Contractor shall identify items
23 requiring coordination with work of separate contractors. The working day to
24 calendar date correlation shall be based upon the Contractor's proposed work
25 week with adequate allowance for legal holidays, days lost due to abnormal
26 weather, and any special requirements of the Project.
27

28 C. The Construction Schedule shall be prepared and maintained by the Contractor.
29

30 D. The Owner, Project Manager, Contractor and other Contractor(s) shall jointly
31 review the progress of the work weekly. Should this review, in the opinion of the
32 Project Manager, indicate that the work is behind the schedule established by
33 currently reviewed Construction Schedule, the Contractor shall either (1) provide
34 a plan to the Project Manager indicating the steps the Contractor intends to take
35 in order to recover the time behind schedule and conform to the reviewed
36 Construction Schedule; or (2) submit a revised Construction Schedule for
37 completion of the work, remaining within the Work Order Completion Time, to the
38 Project Manager for review by the next weekly meeting. If the Contractor's
39 recovery or revised schedule requires work to occur during Other Than Normal
40 Working Hours, the Contractor will be responsible for any resulting costs incurred
41 by the Owner, including but not limited to, the costs for construction management,
42 contract administration, inspection, testing and staffing.
43

44 E. The Contractor shall deliver copies of his/her daily job logs to the Project Manager
45 and Owner on a weekly basis or as otherwise agreed to by Owner. At a minimum,
46 the Contractor's daily job log should include the sub-contractors working onsite,
47 number of workers and their trade classification, description of work, visitors,
48 temperature and weather conditions, accidents, delays, and any other important
49 information pertaining to the project that day. The Contractor will schedule and
50 coordinate the Work of all sub-contractors on the Project. The Contractor will
51 keep the Sub-contractors informed of the Construction Schedule to enable the
52 Contractor to plan and perform the Work properly.

1
2
3 2.18 RECORDS, DOCUMENTS AND SAMPLES AT THE SITE
4

- 5 A. The Contractor shall maintain all records of required Review Agencies, County or
6 State inspections and shall promptly notify the Project Manager of the results of
7 any inspection. Copies of all such records shall be provided to the Owner.
8
9 B. The Contractor shall secure and maintain required certificates of inspection,
10 testing or approval and shall promptly deliver them to the Project Manager.
11
12 C. The Contractor shall maintain at the Project site, on a daily basis, one (1) record
13 copy of all Drawings, Specifications, Addenda, Work Orders and other
14 Modifications, in good order and marked currently to record all changes made
15 during construction, and reviewed Shop Drawings, Product Data and Samples.
16 These shall be available to the Project Manager and the Owner and reviewed
17 weekly, and shall be delivered to the Project Manager for forwarding to the Owner
18 upon completion of the Project. The Contractor shall advise the Project Manager
19 on a current basis of all changes in the Work made during construction. Payment
20 may be withheld from Contractor for failure to maintain current Record
21 Documents.
22

23
24 2.19 USE OF SITE
25

- 26 A. The Contractor shall confine operations at the site to areas permitted by law,
27 ordinances, permits and the Contract Documents, and shall not unreasonably
28 encumber the site with any materials or equipment.
29
30 B. The Contractor shall coordinate all of the Contractor's operations with, and secure
31 approval from, the Project Manager before using any portion of the site. Also see
32 Technical Specifications, Division I, General Requirements.
33

34
35 2.20 CUTTING AND PATCHING OF WORK
36

- 37 A. The Contractor shall be responsible for all cutting, fitting or patching that may be
38 required to complete the Work or to make its several parts fit together properly.
39
40 B. The Contractor shall not damage or endanger any portion of the Work or the work
41 of the Owner or any separate contractors by cutting, patching or otherwise altering
42 any work, or by excavation. The Contractor shall not cut or otherwise alter the
43 work of the Owner or any separate contractor except with the written consent of
44 the Owner and of such separate contractor. The Contractor shall not
45 unreasonably withhold from the Owner or any separate contractor consent to
46 cutting or otherwise altering the Work.
47
48 C. The Contractor in all cases shall exercise extreme care in any cutting operations,
49 and perform such operations under adequate supervision by competent
50 mechanics skilled in the applicable trade. Openings shall be neatly cut and shall
51 be kept as small as possible to avoid unnecessary damage. Careless and/or

1 avoidable cutting damage, etc., will not be tolerated, and the Contractor will be
2 held responsible for such avoidable or willful damage.

- 3
4 D. All replacing, patching and repairing of all materials and surfaces cut or damaged
5 in the execution of the Work shall be performed by experienced mechanics of the
6 several trades involved. All work of such nature shall be done with the applicable
7 materials, in such a manner that all surfaces so replaced, repaired, or patched,
8 will, upon completion of the Work, match the surrounding similar surfaces.
9

10
11 2.21 CLEANING UP

- 12
13 A. The Contractor shall at all times keep the premises free from accumulation of
14 waste materials or rubbish caused by the Contractor's operations. At the
15 completion of the Work, the Contractor shall remove all the Contractor's waste
16 materials and rubbish from and about the Project as well as all the Contractor's
17 tools, construction equipment, machinery and surplus materials.
18
19 B. If the Contractor fails to clean up at the completion of the Work, the Owner may
20 do so and the cost thereof shall be paid by the Contractor.
21

22
23 2.22 INDEMNIFICATION

- 24
25 A. To the fullest extent permitted by law, Contractor agrees to and shall indemnify,
26 save, hold harmless and at Owner's request, defend Owner and its officers,
27 agents and employees, and the Architect and Consultants and their respective
28 officers, agents and employees, from any and all costs and expenses, attorney
29 fees and court costs, damages, liabilities, claims and losses occurring or resulting
30 to Owner, the Architect or Consultants in connection with the performance, or
31 failure to perform, by Contractor, its officers, agents or employees under this
32 Agreement, and from any and all costs and expenses, attorney fees and court
33 costs, damages, liabilities, claims and losses occurring or resulting to any person,
34 firm or corporation who may be injured or damaged by the performance, or failure
35 to perform, of Contractor, its officers, agents or employees under this Agreement.
36 In addition, Contractor agrees to indemnify Owner for Federal, State of California
37 and/or local audit exceptions resulting from non-compliance herein on the part of
38 Contractor.
39
40 B. In any and all claims against the Owner, the Architect or Consultants, or any of
41 their respective officers, agents or employees, initiated by any employee of the
42 Contractor, any Subcontractor, anyone directly or indirectly employed by any of
43 them or anyone for whose acts any of them may be liable, the indemnification
44 obligation set forth in the immediately preceding paragraph shall not be limited in
45 any way by any limitation on the amount or type of damages, compensation or
46 benefits payable by or for the Contractor or any Subcontractor under workmen's
47 compensation acts, disability benefit acts or other employee benefit acts.
48

- 49 1. Independent Contractor: In performance of the work, duties and
50 obligations assumed by Contractor under this Agreement, it is mutually
51 understood and agreed that Contractor, including any and all of the
52 Contractor's officers, agents, and employees will at all times be acting and

1 performing as an independent contractor, and shall act in an independent
2 capacity and not as an officer, agent, servant, employee, joint venturer,
3 partner, or associate of the Owner. Furthermore, Owner shall have no right
4 to control or supervise or direct the manner or method by which Contractor
5 shall perform its work and function. However, Owner shall retain the right to
6 administer this Agreement so as to verify that Contractor is performing its
7 obligations in accordance with the terms and conditions thereof.
8

9 Contractor and Owner shall comply with all applicable provisions of law
10 and the rules and regulations, if any, of governmental authorities having
11 jurisdiction over matters the subject thereof.
12

13 Because of its status as an independent contractor, Contractor shall
14 have absolutely no right to employment rights and benefits available to
15 Owner employees. Contractor shall be solely liable and responsible for
16 providing to, or on behalf of, its employees all legally-required employee
17 benefits. In addition, Contractor shall be solely responsible and save
18 Owner harmless from all matters relating to payment of Contractor's
19 employees, including compliance with Social Security withholding and all
20 other regulations governing such matters. It is acknowledged that during
21 the term of this Agreement, Contractor may be providing services to
22 others unrelated to the Owner or to this Agreement
23

24 **2.23 FAIR EMPLOYMENT PRACTICES CLAUSE**

25
26 Nondiscrimination: In connection with the performance of Work under the contract, the
27 Contractor agrees (as prescribed in Chapter 6 of Division 3 of Title II of the Government
28 Code of the State of California, commencing at Section 12900 and by Labor Code
29 Section 1735) not to discriminate against any employee or applicant for employment
30 because of race, religious creed, color, national origin, ancestry, physical disability,
31 mental disability, medical condition, marital status or sex. The aforesaid provisions shall
32 include, but not be limited to, the following: employment, upgrading, demotion or
33 transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or
34 other forms of compensation, and selection for training, including apprenticeship. The
35 Contractor agrees to post hereafter in conspicuous places, available for employees and
36 applicants for employment, Notices to be provided by the County, setting forth the
37 provisions of this discrimination clause. The Contractor further agrees to insert the
38 foregoing provisions in all subcontracts hereunder, except subcontracts for standard
39 commercial supplies of raw materials.
40

41
42 **2.24 PAYMENT**

43
44 A. The Owner shall make one payment for all Work Orders that have a Work Order
45 Completion Time of 45 days or less, or a Work Order Price of \$25,000 or less. For
46 all other Work Orders, the Owner may make partial, monthly payments based on
47 a percentage of the work completed.
48

49 **B. SCHEDULE OF VALUES**

50
51 Before the first Application for Payment, the Contractor shall submit to the Project
52 Manager a Schedule of Values allocated to the various portions of the Work,

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1 prepared in such form and supported by such data to substantiate its accuracy as
2 the Project Manager may require. This schedule, unless objected to by the Project
3 Manager, shall be used only as a basis for the Contractor's Applications for
4 Payment.
5

6 C. APPLICATIONS FOR PAYMENT
7

8 The Owner will make progress payments to the Contractor upon completion of
9 portions of the Work, as covered by the Contract Documents, in accordance with
10 established Owner procedures. Before submitting an Application for Payment
11 (Final or Partial) the Contractor shall reach an agreement with the Project
12 Manager (in consultation with the Architect) concerning the percentage complete
13 of the Detailed Scope of Work and the dollar value for which the Application for
14 Payment may be submitted.
15

- 16 1. On or about the twentieth (20th) of the month in which the work was
17 performed, the Contractor shall submit to the Project Manager an itemized
18 Application for Payment, notarized if required, supported by such data
19 substantiating the Contractor's right to payment as the Owner or the
20 Project Manager may require, including appropriate updates to the
21 Construction Schedule, and reflecting retainage, if any, as provided
22 elsewhere in the Contract Documents. Payment is expressly conditioned
23 upon submission by the Contractor of conditional and unconditional
24 waivers and release of lien rights upon progress payment as the Owner or
25 the Architect may require. Waiver and Release forms must be submitted
26 on forms approved by the Owner. Copies of said forms shall comply with
27 Civil Code Section 8132 through 8138, inclusive.
28
- 29 2. Unless otherwise provided in the Contract Documents, payments may be
30 made on account of materials or equipment not incorporated in the Work
31 but delivered and suitably stored at the site and, if approved in advance
32 by the Owner, payments may similarly be made for materials or equipment
33 suitably stored at some other location agreed upon in writing. Payments
34 for materials or equipment stored on or off the site shall be conditioned
35 upon submission by the Contractor of bills of sale or such other procedures
36 satisfactory to the Owner to establish the Owner's title to such materials
37 or equipment or otherwise protect the Owner's interest, including
38 applicable insurance and transportation to the site for those materials and
39 equipment stored off the site.
40
- 41 3. The Contractor warrants that title to all work, materials and equipment
42 covered by an Application for Payment will pass to the Owner either by
43 incorporation in the construction or upon receipt of payment by the
44 Contractor, whichever occurs first, free and clear of all liens, stop notices,
45 claims, security interest or encumbrances, hereinafter referred to as
46 "liens"; and that no work, materials or equipment covered by an
47 Application for Payment will have been acquired by the Contractor, or by
48 any other person performing work at the site or furnishing materials and
49 equipment for the Project, subject to an agreement under which an interest
50 therein or an encumbrance thereon is retained by the seller or otherwise
51 imposed by the Contractor or such other person.
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4. On or about the twentieth (20th) day of the month following the month in which the work was performed, the Owner shall pay to the Contractor ninety-five percent (95%) of the value of said work in place, as checked and approved by the Project Manager. The balance of five percent (5%) of the estimate shall be retained by the Owner until the time of final acceptance of said work. In lieu of the five percent (5%) retainage, the Contractor may substitute securities as provided herein below.
 - a. If the Owner does not pay the Contractor within thirty (30) days after receipt of an undisputed and properly submitted payment request for a progress payment, excluding that portion of the final payment designated by the contract as retention earnings, then the Owner shall pay interest to the Contractor as provided by Public Contract Code Section 20104.50. Said interest penalty is the sole recourse of Contractor and Contractor shall have no right to stop the Work until payment of the amount owing has been received, nor shall the Work Order Completion Time be extended, nor shall the Work Order Price be increased in any way, including by reason of any costs incurred by Contractor, except to the extent of said interest payment.
 - b. Pursuant to Public Contract Code Section 7107, in the event of a dispute between the Owner and Contractor, the Owner may withhold from the final payment an amount not to exceed one hundred and fifty percent (150%) of the disputed amount. Except as so provided, the Owner shall release the retention withheld within sixty (60) days after the date of Work Order completion of the work of improvement, as "completion" is defined in Public Contract Code Section 7107. In the event that retention payments are not made within the time periods required by Public Contract Code Section 7107, the Owner may be subject to the interest provisions of Public Contract Code Section 7107.
5. Security Substitutions and Escrow for Moneys Withheld to Insure Contractor's Performance. Pursuant to Public Contract Code section 22300, the Contractor may deposit in an escrow, equivalent securities for any moneys withheld to ensure performance and have said moneys paid directly to Contractor, or, in the alternative, have the Owner deposit such moneys directly into an escrow. Upon the closing of any such escrow, Contractor shall pay to each Subcontractor, not later than twenty (20) days after receipt of the closing payment, the respective amount of interest earned, net of costs attributed to retention withheld from each Subcontractor, on the amount of retention withheld to insure the performance of the Contractor. Any escrow established pursuant to this article shall be with a state or federally chartered bank, shall be at the sole expense of the Contractor, and shall be established using an escrow agreement in substantially the following form:

(Begin Escrow Agreement)

ESCROW AGREEMENT FOR SECURITY DEPOSITS IN LIEU OF RETENTION

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

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

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

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- 1 6. The interest earned on the securities or the money market accounts held in escrow and
2 all interest earned on that interest shall be for the sole account of Contractor and shall be
3 subject to withdrawal by Contractor at any time and from time to time without notice to
4 the Owner.
5
6 7. Contractor shall have the right to withdraw all or any part of the principal in the Escrow
7 Account only by written notice to Escrow Agent accompanied by written authorization
8 from Owner to the Escrow Agent that Owner consents to the withdrawal of the amount
9 sought to be withdrawn by Contractor.
10
11 8. The Owner shall have the right to draw upon the securities or any amount paid directly to
12 Escrow Agent in the event of default by the Contractor. Upon seven (7) days written
13 notice to the Escrow Agent from the Owner of the default, the Escrow Agent shall
14 immediately convert the securities to cash and shall distribute the cash, including any
15 amounts paid directly to Escrow Agent, as instructed by the Owner. Escrow Agent shall
16 not be concerned with the validity of any notice of default given by Owner pursuant to this
17 paragraph, and shall promptly comply with Owner's instructions to pay over said
18 escrowed assets. Escrow Agent further agrees not to interplead the escrowed assets in
19 response to conflicting demands and hereby waives any present or future right of
20 interpleader.
21
22 9. Upon receipt of written notification from the Owner certifying that the Contract is final and
23 complete, and that the Contractor has complied with all requirements and procedures
24 applicable to the Contract, Escrow Agent shall release to Contractor all securities and
25 interest on deposit less escrow fees and charges of the Escrow Account. The escrow
26 shall be closed immediately upon disbursement of all moneys and securities on deposit
27 and payment of fees and charges.
28
29 10. Escrow Agent shall rely on the written notifications from the Owner and Contractor
30 pursuant to Sections (6), (7), (8) and (9) of this Agreement and the Owner and Contractor
31 shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of the
32 securities and interest as set forth above.
33
34 11. Securities eligible for investment under this Agreement, as provided by Public Contract
35 Code Section 22300, shall be those listed in Section 16430 of the Government Code,
36 bank or savings and loan certificates of deposit, interest bearing demand deposit
37 accounts, standby letters of credit, or any other security mutually agreed to by the
38 Contractor and Owner.
39
40 12. The venue of any litigation concerning the rights and obligations of the parties to this
41 agreement shall be the County of Fresno and the parties hereto waive the removal
42 provisions of Code of Civil Procedure Section 394.
43
44 13. The names of the persons who are authorized to give written notice or to receive written
45 notice on behalf of the Owner and on behalf of Contractor in connection with the
46 foregoing, and exemplars of their respective signatures are as follows:
47
48
49
50
51

52 **On behalf of Owner:**

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On behalf of Contractor:

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

Title
Name
Signature _____
Address

On behalf of Escrow Agent:

Title
Name
Signature
Address

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

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

Owner:

Title – **Steven White, Director
Department of Public Works and Planning**
Signature _____
Address- **2220 Tulare, 6th Floor
Fresno, CA 93721**

Contractor:

Title
Name
Signature _____
Address

Escrow Agent:

Title
Name
Signature
Address

(End Escrow Agreement)

6. **Itemized Breakdown:** The Contractor shall submit a financial breakdown of the work, itemized by crafts or sections as designated by the Owner.

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1 The Contractor's payment shall be based upon the monthly percentage of
2 completion of these items.

- 3
4 7. Lien Waivers: The Owner may require the Contractor to submit, along with
5 the progress payment request, notarized lien waivers from each
6 Subcontractor, materials or equipment supplier. Lien waivers shall comply
7 with Civil Code Section 8132, et seq., and the aggregate sum thereof shall
8 reflect all progress payments previously made.
9

10 D. CERTIFICATES FOR PAYMENT

- 11
12 1. The Project Manager shall, within seven (7) days after the receipt of the
13 Project Application for Payment, review the Project Application for
14 Payment and either issue a Project Certificate for Payment to the Owner
15 for such amounts as the Project Manager determines are properly due, or
16 notify the Contractor in writing of the reasons for withholding a Certificate
17 provided in Part F of this Section 2.24.
18
19 2. The issuance of a Project Certificate for Payment will constitute a
20 representation by the Project Manager to the Owner that, based on the
21 Project Manager's observations at the site as provided herein and the data
22 comprising the Project Application for Payment, the Work has progressed
23 to the point indicated and that, to the best of the Project Manager's
24 knowledge, information and belief, the quality and timeliness of the Work
25 is in accordance with the Contract Documents (subject to an evaluation of
26 the Work for conformance with the Contract Documents upon Completion
27 of the Work, to the results of any subsequent tests required by or
28 performed under the Contract Documents, to minor deviations from the
29 Contract Documents correctable prior to completion, and to any specific
30 qualifications stated in the Certificate); and that based upon all currently
31 available information, the Contractor is entitled to payment in the amount
32 certified. However, by issuing a Project Certificate for Payment, the
33 Project Manager shall not thereby be deemed to represent that the Project
34 Manager has made exhaustive or continuous on-site inspections to check
35 the quality or quantity of the Work, has reviewed the construction means,
36 methods, techniques, sequences or procedures, or has made any
37 examination to ascertain how or for what purpose the Contractor has used
38 the monies previously paid on account of the Work Order Price.
39

40 E. PROGRESS PAYMENTS

- 41
42 1. After the Project Manager has issued a Project Certificate for Payment,
43 the Owner shall make payment in the manner and within the time provided
44 in the Contract Documents.
45
46 2. The Contractor shall promptly pay each Subcontractor upon receipt of
47 payment from the Owner, out of the amount paid to the Contractor on
48 account of such Subcontractor's Work, the amount to which Subcontractor
49 is entitled, reflecting the percentage actually retained, if any, from
50 payments to the Contract on account of such Subcontractor's Work. The
51 Contractor shall, by an appropriate agreement with each Subcontractor,

1 require each Subcontractor to make payments to their Sub-subcontractors
2 in similar manner.

- 3
4 3. The Project Manager may on request of any Subcontractor, at the Project
5 Manager's discretion, furnish to that Subcontractor, if practicable,
6 information regarding the percentages of completion or the amounts
7 applied for by the Contractor and the action taken thereon by the Project
8 Manager on account of Work done by such Subcontractor.
9
10 4. Neither the Owner nor the Project Manager shall have any obligation to
11 pay or to see to the payment of any monies to any Subcontractor or
12 Material Suppliers except as may otherwise be required by law.
13
14 5. Neither certification of a progress payment, delivery of a progress
15 payment, nor partial or entire use or occupancy of the Project by the
16 Owner, shall constitute an acceptance of any Work not performed in
17 accordance with the Contract Documents.
18

19 **F. PAYMENTS WITHHELD**

- 20
21 1. The Project Manager may decline to certify payment and may withhold the
22 Certificate in whole or in part to the extent necessary to reasonably protect
23 the Owner, if, in the Project Manager's opinion, the Project Manager is
24 unable to make representations to the Owner as provided herein above
25 for Certificates for Payment. If the Project Manager is unable to make
26 representations to the Owner and certify payment in the amount of the
27 Project Application, the Project Manager will notify the Contractor as
28 provided herein. If the Contractor and the Project Manager cannot agree
29 on a revised amount, the Project Manager will promptly issue a Project
30 Certificate for Payment for the amount for which the Project Manager is
31 able to make such representations to the Owner. The Project Manager
32 may also decline to certify payment or, because of subsequently
33 discovered evidence or subsequent observations, the Project Manager
34 may nullify the whole or any part of any Project Certificate for Payment
35 previously issued to such extent as may be necessary, in the Project
36 Manager's opinion, to protect the Owner from loss because of:
37
38 a. Defective Work not remedied;
39 b. Third party claims filed or reasonable evidence indicating probable
40 filing of such claims, including claims by separate contractors;
41 c. Failure of the Contractor to make payments properly to
42 Subcontractors, or for labor, materials or equipment;
43 d. Architect's determination, based upon reasonable evidence, that
44 the Work cannot be completed for the unpaid balance of the
45 Contract Sum;
46 e. Damage to the Owner or another contractor;
47 f. Architect's determination, based upon reasonable evidence, that
48 the Work will not be accomplished in compliance with the Work
49 Order Completion Time;
50 g. Persistent failure to carry out the Work in accordance with the
51 Contract Documents;

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

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

3. When the grounds as noted above are removed, payment shall be made for amounts withheld on the basis thereof.

G. COMPLETION AND FINAL PAYMENT

1. Following the Contractor's completion of the Work of each individual Work Order, the Contractor shall forward to the Project Manager a written notice that the Work is ready for final inspection and acceptance, and shall also forward to the Project Manager a final Application for Payment. Upon receipt, the Project Manager will promptly make such inspection. When the Project Manager finds the Work acceptable under the Contract documents and the Contract fully performed, the Project Manager will issue a Project Certificate for Payment which will certify the final payment due the Contractor. This certification will constitute a representation that, to the best of the Project Manager's knowledge, information and belief, and on the basis of observations and inspections, the Work has been completed in accordance with the Terms and Conditions of the Contract Documents and that the entire balance found to be due the Contractor, and noted in said Certificate, is due and payable. The Project Manager's certification of said Project Certificate for Payment will constitute a further representation that the conditions precedent to the Contractor's being entitled to final payment as set forth herein below have been fulfilled.

2. Neither the final payment on each individual Work Order nor the remaining retainage shall become due until the Contractor submits to the Project

1 Manager (1) an affidavit that all payrolls, bills for materials and equipment,
2 and other indebtedness connected with the Work for which the Owner or
3 the Owner's property might in any way be responsible, have been paid or
4 otherwise satisfied, (2) consent of surety, if any, to final payment, and (3)
5 other data establishing payment or satisfaction of all such obligations,
6 such as receipts, releases and waivers of liens arising out of the Contract,
7 to the extent and in such form as may be designated by the Owner. If any
8 Subcontractor refuses to furnish a release or waiver required by the
9 Owner, the Contractor may furnish a bond satisfactory to the Owner to
10 indemnify the Owner against any such lien. The bond cannot be from the
11 original surety insurer for the project or any affiliate of the original surety.
12 If any such lien remains unsatisfied after all payments are made, the
13 Contractor shall refund to the Owner all monies that the latter may be
14 compelled to pay in discharging such lien.
15

- 16 3. All provisions of this Agreement, including without limitation those
17 establishing obligations and procedures, shall remain in full force and
18 effect notwithstanding the making or acceptance of final payment, and the
19 making of final payment shall not constitute a waiver of any claims by the
20 Owner.
21
- 22 4. Upon completion and acceptance of all work whatsoever required on each
23 individual Work Order, and upon the release of all claims against the
24 Owner as specified, the Owner shall file a written Notice of Completion
25 with the County Recorder as to the entire amount of work performed for
26 each individual Project.
27
- 28 5. Final payment will be released within sixty (60) days after the date of
29 acceptance of the Work as reflected in the Notice of Completion filed with
30 the County Recorder's Office; provided, that Owner may withhold from the
31 final payment, in the event of a dispute between Owner and Contractor,
32 retentions in and amount not exceeding 150 percent of the disputed
33 amount. At the Contractor's option, the Owner may release retention upon
34 receipt of an unconditional lien release for the full value of the Work Order
35 and any of its Supplemental Work Orders.
36
- 37 6. All manufacturers' warranties required by the Contract Documents shall
38 commence on the date of the Notice of Completion for the Work. It shall
39 be the Contractor's responsibility, through appropriate contractual
40 arrangements with all subcontractors, materialmen and suppliers, to
41 ensure compliance with this requirement.
42
- 43 7. The acceptance by the Contractor of the final payment, after the date of
44 Notice of Completion of the Project, shall be and shall operate as a release
45 to the Owner of all claims and of all liability to the Contractor, under the
46 Contract Documents or otherwise, for all things done or furnished in
47 connection with this Work, excepting only the Contractor's claims for
48 interest upon final payment, if such final payment be improperly delayed.
49 No payments, however, final or otherwise, shall operate to release the
50 Contractor or his/her sureties from any obligations under the Contract
51 Documents, including but not limited to the Performance and Payment
52 Bonds.

1
2 2.25 CHANGES TO THE WORK
3

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

31
32 2.26 NOT USED
33

34
35 2.27 SITE CONDITIONS
36

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

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

2.28 REQUEST FOR EQUITABLE ADJUSTMENT

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

2.29 MINOR CHANGES IN THE WORK

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

2.30 SUCCESSORS AND ASSIGNS

The Owner and the Contractor, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party with respect to all

1 covenants, agreements and obligations contained in the Contract Documents. Neither
2 party to the Contract shall assign the Contract or sublet it as a whole without the written
3 consent of the other.
4

5
6 2.31 ASSIGNMENT OF MONEYS
7

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

15
16 2.32 GUARANTEE OF WORK
17

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

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

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

- 1 D. The Owner may have the defects corrected if the Contractor, after notice, fails to
2 proceed promptly to comply with the terms of the guarantee and the Contractor
3 and his/her surety shall be liable for all costs and expenses incurred in connection
4 therewith.
5
6 E. All special guarantees applicable to definite parts of the work that may be
7 stipulated in the Contract Documents shall be subject to the terms of this Article
8 2.32 during the first (1st) year (365 Calendar Days) of the life of such special
9 guarantee.

10
11
12 2.33 RESPONSIBILITY FOR DAMAGE
13

- 14 A. Neither the Owner, the Architect, nor any officer or employee of the County, or
15 officer or employee thereof, within the limits of which the work is being performed,
16 shall be answerable or accountable in any manner, for any loss or damage that
17 may happen to the work or any part thereof; or for any of the materials or other
18 things used or employed in performing the work; or for injury to any person or
19 persons, either workmen or the public, for damage to property from any cause
20 which might have been prevented by the Contractor, or his/her workmen, or
21 anyone employed by him/her, against all of which injuries or damages to persons
22 and property the Contractor having control over such work must properly guard.
23
24 B. The Contractor shall be responsible for any liability imposed by law for any
25 damage to any person or property resulting from defects or obstructions or from
26 any cause whatsoever during the progress of the work or at any time before the
27 issuance of the Notice of Completion.
28
29 C. The Contractor shall indemnify and hold harmless the Owner, the Project
30 Manager, the Architect, and all of their respective officers and employees, from
31 all claims, lawsuits or actions of every kind and nature whatsoever, brought for, or
32 on account of any injuries or damages received or sustained by any person or
33 persons, resulting from any act or admission by the Contractor or his/her servants
34 or agents, in the construction of the work or by or in consequence of any
35 negligence in guarding the same, in improper materials used in its construction,
36 or by or on account of any act or omission of the Contractor or his/her agents in
37 the performance of Contractor's obligations under the Contract Documents. In
38 addition to any remedy authorized by law, so much of the money due the
39 Contractor under and by virtue of the contract as shall be considered necessary
40 by the Owner may be retained by the Owner until disposition has been made of
41 such claims, lawsuits or actions for damages as aforesaid.
42
43
44
45

46 2.34 WRITTEN NOTICE
47

48 Subject to any additional requirements that may be applicable to claims under the
49 immediately following Article 2.35 RESOLUTION OF CONTRACT CLAIMS AND
50 DISPUTES, formal service, when required, of written notice shall be deemed to have
51 been duly served if delivered in person, to the individual or member of the firm or entity

1 or to an officer of the corporation for whom it was intended, or if sent by registered or
2 certified mail to the listed address of that entity for the attention of such individual.
3
4

5 2.35 RESOLUTION OF CONTRACT CLAIMS AND DISPUTES
6

- 7 A. A Claim is a demand or assertion sent by registered mail or certified mail with
8 return receipt requested by one (1) of the parties seeking, as a matter of right,
9 adjustment or interpretation of Contract terms, payment of money, extension of
10 time, or a request for equitable adjustment or Supplemental Work Order which
11 cannot be resolved per provisions of Section 2.25 - CHANGES TO THE WORK.
12 Any Claim shall be reduced to writing and filed with the Project Manager, within
13 ten (10) calendar days after the Contractor has notice of the condition giving rise
14 to the Claim, and final action per Section 2.25 - CHANGES TO THE WORK
15 procedures has taken place or has been declared as such in writing, by either
16 party. Such ten (10)-day notice of an asserted claim is in addition to the
17 requirement for prompt notice required per Section 2.25 - CHANGES TO THE
18 WORK.
19
20 B. The Contractor shall not claim or recover any overhead cost administrative or
21 otherwise, particularly 'Home Office' expenses, 'Extended site overhead', or any
22 other overhead cost on the basis of any 'Home Office' damages formula, 'Eichleay'
23 formula, 'Total Cost' recovery formula or any other such formula.
24
25 C. REQUIREMENTS FOR FILING A CLAIM. Claims shall be submitted to the
26 Project Manager. Claims must be filed within the time specified above, but in no
27 event shall any claim be considered by the Project Manager that is filed later than
28 the date of final payment of the Project. The claim shall be in writing and shall be
29 a sum certain if known. If unknown, Contractor shall specify the basis for
30 establishing the sum certain. Claim shall include a statement of the reasons for
31 the asserted entitlement, and include the documents necessary to substantiate
32 the claim. Such documents may include but are not limited to payroll records,
33 purchase orders, quotations, invoices, estimates, subcontracts, daily logs,
34 supplier contracts, subcontract billings, bid takeoffs, equipment rental invoices,
35 ledgers, journals, daily reports, job diaries, and any documentation related to the
36 requirements of Section 2.25 - CHANGES TO THE WORK. In the case of a
37 continuing delay, only one (1) claim is necessary. If adverse weather conditions
38 are the basis for a claim for additional time, such claim shall be documented by
39 data substantiating that weather conditions were abnormal for the period of time
40 and could not have been reasonably anticipated, and that weather conditions had
41 an adverse effect on the critical activities on the construction schedule. The
42 Contractor shall certify, at the time of submission of a claim, as follows:
43

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

1 Owner is liable; and, further, that I am familiar with California Penal Code
2 Section 72 and California Government Code Section 12560, et seq,
3 pertaining to false claims, and further know and understand that
4 submission or certification of a false claim may lead to fines, imprisonment
5 and/or other severe legal consequences.
6

7 By: _____
8 (Contractor's signature) (Date)
9

10 D. Nothing in this Article is intended to extend the time limit or supersede notice
11 requirements otherwise provided by this contract or by applicable law for the filing
12 of claims. Any formal claim shall be processed in accordance with the provisions
13 of Public Contract Code Section 9204 and Section 20104 et. seq., each of which
14 establishes a process for resolution of claims, the provisions of which are
15 consistent with and effectively summarized by the following
16

- 17 1. The Owner (or his/her designee), shall review the facts pertinent to the
18 claim, obtain additional information deemed necessary for a decision (if
19 any), review recommendations of the Project Manager, coordinate with the
20 contract administrator (if any) and secure assistance from legal and other
21 advisors, and render a written decision on the claim within forty-five (45)
22 days of receipt of the claim. If additional information or documentation is
23 thereafter required, it shall be requested and provided pursuant to this
24 subdivision, upon mutual agreement of the Owner (or his/her designee)
25 and claimant. The Owner's (or his/her designee's) written response to the
26 claim, as supplemented by any additional information and/or
27 documentation provided by claimant, shall be submitted to the claimant
28 within fifteen (15) days after receipt of the further information and/or
29 documentation or within a period of time no greater than that taken by the
30 claimant in producing the additional information, whichever is greater.
31
- 32 2. If the claimant disputes the written response of Owner (or his/her
33 designee), or Owner fails to respond within the time prescribed, the
34 claimant may so notify the Owner (or his/her designee), in writing, either
35 within fifteen (15) days of receipt of the Owner (or his/her designee's)
36 response or within fifteen (15) days of the Owner (or his/her designee's)
37 failure to respond within the time prescribed, respectively, and demand an
38 informal conference to meet and confer for settlement of the issues in
39 dispute. Upon a demand, the Owner (or his/her designee) shall schedule
40 a meet and confer conference within thirty (30) days for settlement of the
41 dispute.
42
- 43 3. Within ten (10) business days following conclusion of the meet and confer
44 conference, any unpaid portion of the claim remaining in dispute shall be
45 submitted to nonbinding mediation, as that term is defined by Public
46 Contract Code Section 9204(d)((2)(C)).
47
- 48 4. If following the conclusion of the meet and confer conference and
49 mediation process, the claim or any portion thereof remains in dispute, the
50 claimant may file a claim pursuant to Chapter 1 (commencing with Section
51 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division
52 3.6 of Title 1 of the Government Code. For purposes of those provisions,

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

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

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

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

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

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

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

- 4. Any claim or dispute related to the approval, refusal to approve, or substitution of Subcontractors, regardless of tier, and suppliers.
- G. PAYMENT OF UNDISPUTED PORTION OF CLAIM. Owner shall pay claimant such portion of a claim that is undisputed except as otherwise provided in the contract.
- H. CONTINUE WORK DURING DISPUTE. In the event of any disputed claim or other dispute between the Owner and the Contractor, the Contractor will not stop work but will prosecute the work diligently to completion in his/her manner directed by the Owner, and the dispute shall be resolved by a court of law after completion of the Work. However, Contractor must submit all disputes in accordance with the provisions of this Section 2.35.
- I. SUIT IN FRESNO COUNTY ONLY. Any litigation arising out of this Contract shall be brought in Fresno County and Contractor hereby waives the removal provisions of California Code of Civil Procedure Section 394.

2.36 PERFORMANCE BOND, LABOR AND MATERIAL PAYMENT BOND AND WARRANTY BOND

- A. The Contractor shall furnish Performance Bond in the amount of one hundred percent (100%) of the Contract Sum, and Payment Bond in the amount of one hundred percent (100%) of the Contract Sum and One Year Warranty Bond in the amount of ten percent (10%) of the Final Contract Sum, which is the cumulative amount that will have been paid to Contractor for all of the Work performed under the Contract once the Project has been completed and the Work has been accepted by the County.
- B. All bonds required, whether Bid bonds, Performance, Payment, Warranty or other bonds, shall be issued by an admitted surety insurer authorized by the California Insurance Commissioner to transact surety insurance in the state. The same admitted surety insurer must issue the Bid Bond, Performance Bond, Payment Bond, and Warranty Bond. The payment, performance and warranty bonds required by these specifications will neither be accepted nor approved by the Owner unless the bonds are underwritten by an admitted surety and the requirements of California Code of Civil Procedure section 995.630 are met. The bonds must include a physical mailing address, phone number, FAX number, and contract person for the admitted surety insurer. The Owner further reserves the right to satisfy itself as to the acceptability of the surety and the form of bond. Upon request of the Owner, the bidder must submit the following documents:
 - 1. The original, or a certified copy, of the unrevoked appointment, power of attorney, bylaws, or other instrument authorizing the person who executed the bond to do so.
 - 2. A certified copy of the certificate of authority of the insurer issued by the California Insurance Commissioner.

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

2.37 RIGHTS AND REMEDIES

- A. 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.
- B. No action or failure to act by the Owner, or by the Project Manager or Architect, 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.

2.38 TIME, DELAYS AND LIQUIDATED DAMAGES

A. DEFINITIONS

1. Unless otherwise provided, the Work Order Completion Time is the period of time allotted in the Contract Documents for completion of the Work of an individual work Order, including authorized adjustments thereto.
2. The Date of Commencement of the Work is the date established in the Notice to Proceed.
3. The Date of Completion of the Work is the date of which the work is certified as complete by the Project Manager as specified in the Notice of Completion.
4. The term "day" as used in the Contract Documents shall mean calendar day unless specifically designated otherwise.

B. PROGRESS AND COMPLETION

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

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

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

15 C. DELAYS AND EXTENSIONS OF TIME

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- 17 1. Delays in prosecution of parts or classes of the Work that are not
18 demonstrated to prevent or delay completion of an entire Project or
19 specific milestones within the Work Order Completion Time are not
20 "unavoidable delays" for purposes of this section.
- 21
- 22 2. In all cases, the time authorized for extension of the Work Order
23 Completion Time shall be no greater than the number of days directly
24 attributable to the event or circumstances which causes unavoidable delay
25 in the completion of a Project. Contractor shall be entitled, in the case of
26 unavoidable delays, to an extension in the Work Order Completion Time,
27 but not to any increase to the Work Order Price. "Unavoidable delay" for
28 this purpose shall be defined as follows:
- 29
- 30 a. Unavailable Materials. That materials or articles called for in the
31 Contract Documents are not obtainable within the time required for
32 timely completion; provided that such materials or articles were
33 listed by the Contractor in the schedule required by Section 2.17 -
34 CONTRACTOR'S CONSTRUCTION SCHEDULE; that the
35 Contractor demonstrates that the unavailability of the materials is
36 in fact the cause for the delay, and could not have been avoided
37 by an appropriate adjustment in the Construction Schedule; and
38 that the unavailability of such materials is due to circumstances
39 beyond the Contractor's control. If good cause for delay is
40 demonstrated pursuant to this subsection, the Owner, at its sole
41 discretion, may grant a time extension.
- 42
- 43 b. Force Majeure. That delays in construction have resulted from
44 circumstances beyond the control of the Contractor and which the
45 Contractor could not have provided against by the exercise of
46 reasonable care, prudence, foresight, and diligence. Unavoidable
47 delays within the meaning of this subparagraph shall be those
48 caused by acts of God, war, insurrection, civil disorder, fire, floods,
49 epidemic, or strikes.
- 50
- 51 c. Unseasonable Weather. An extension of Work Order Completion
52 Time may be granted due to weather which is unsuitable for the

1 Work currently in progress, upon the determination of the Owner
2 that the weather conditions in fact caused the delay in completion
3 of a Project and that such weather conditions were not, and could
4 not in the exercise of reasonable diligence, have been foreseen by
5 the Contractor. Seasonable weather that, in the exercise of
6 reasonable foresight and diligence, should be expected in the area
7 at the time of year in question is not cause for an extension of time.
8

9 d. Time Extensions Due to Supplemental Work Orders or Work
10 Authorizations. A time extension may be granted due to additional
11 work that results in a delay in a Project caused by the approval by
12 the Owner of a Supplemental Work Order or Work Authorization.
13 The Contractor shall be entitled to a Work Order Completion Time
14 extension Supplemental Work Order only when the extra Work is
15 demonstrated by the Contractor to have caused a delay in a
16 Project.
17

18 e. Owner Caused Delays. In the event that a Project is delayed by
19 acts of the Owner not authorized by the Contract Documents which
20 the Contractor demonstrates will or have caused an unavoidable
21 delay, the Contractor shall be entitled to a Work Order Completion
22 Time Supplemental Work Order to offset the extra time incurred by
23 the Contractor. The Contractor will not be entitled to adjustments
24 in the Work Order Price. Extra time shall be limited to that which
25 is directly identified as critical by the delay.
26

27 4. The Contractor specifically agrees that a time extension as provided
28 herein is its sole remedy for Owner-caused delays, and agrees to make
29 no claim or demand for additional damages, nor claim an acceleration of
30 the time for performance.
31

32 5. The Contractor shall not be entitled to any Work Order Completion Time
33 extension nor Work Order Price adjustment for alleged Owner delays if the
34 Owner has acted within the time limits specified by the Contract
35 Documents.
36

37 D. NOTICE OF DELAYS
38

39 1. Contractor shall notify the Project Manager promptly whenever the
40 Contractor foresees any event or circumstance that may delay the
41 prosecution of the Work and in Contractor's opinion may provide grounds
42 for an extension, and shall in any event notify the Project Manager
43 immediately upon the occurrence of any such delay. The Contractor shall
44 take immediate steps to prevent, if possible, the occurrence or
45 continuance of the delay. If this cannot be done, the Project Manager shall
46 determine how long the delay shall continue and to what extent the
47 prosecution and completion of the Work are being delayed thereby. Such
48 notification shall specify with detail the cause asserted by the Contractor
49 to constitute grounds for an extension. Failure of the Contractor to submit
50 such a notice within ten (10) days after the initial occurrence of the event-
51 giving rise to the delay shall constitute a waiver by the Contractor of any

1 request for a time extension, and no extension shall be granted as a
2 consequence of such delay.

- 3
4 2. If the Contractor believes that the delay in prosecution in the Work will
5 result in an unavoidable delay in completion of the entire Project, the
6 Contractor shall submit evidence to support that belief, together with its
7 request for a time extension. Such evidence shall include a demonstration
8 that the delayed portion of the Work will affect the Critical Path Scheduling
9 of the entire Project. The Contractor shall also submit a proposed revised
10 Construction Schedule, which accounts for the delay in completion of the
11 entire Project caused by the delay in prosecution of part of the Project, and
12 includes a revised Critical Path demonstrating how the Project will be
13 completed within the proposed revised Work Order Completion Time.
14

15 E. INVESTIGATION; PROCEDURE.

- 16
17 1. Upon receipt of a request for Time extension, the Project Manager shall
18 conduct an investigation of the facts asserted by the Contractor to
19 constitute grounds for an extension. The results of this investigation shall
20 be reported by the Project Manager to the Contractor and shall indicate
21 whether he/she will recommend for or against such extension to the
22 Owner. The performance of this investigation by the Project Manager shall
23 not be construed as direction or recommendation to the Contractor
24 regarding scheduling of the work. Scheduling this work is the sole
25 responsibility of the Contractor.
26
27 2. The Project Manager may, in his/her sole discretion, defer this
28 recommendation to allow the accumulation of time extensions due to Work
29 Authorizations into a periodic or final Supplemental Work Order request.
30
31 3. Upon receiving the Project Manager's recommendation to the Owner
32 regarding the Contractor's request for a time extension, the Contractor
33 may either withdraw its application for extension or request that it be
34 scheduled for action by the Owner. If the Owner disallows the request,
35 there shall be no allowance made for the time during which the request
36 was pending, and the Contractor shall remain obligated to complete the
37 Work in the time specified.
38
39 4. If the Owner approves the time extension Supplemental Work Order, the
40 new Construction Schedule submitted by the Contractor and approved by
41 the Owner shall be deemed to amend the original Construction Schedule
42 approved by the Owner; thereafter, the amended Construction Schedule
43 shall have the same force and effect as the originally approved Progress
44 Schedule.
45
46 5. The revised Construction Schedule must be submitted within seven (7)
47 calendar days of the date in which the Owner approves the change.
48
49 6. The Contractor agrees that the Owner's determination as to the existence
50 of grounds for an extension and, the duration of any such extension, shall
51 be final and binding upon both Owner and Contractor.
52

1 F. DISCRETIONARY TIME EXTENSION FOR BEST INTEREST OF OWNER

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

23

24 G. LIQUIDATED DAMAGES

- 25
- 26 1. If the Work is not completed by Contractor in the time specified in the Work
- 27 Order or within any period of extension authorized pursuant to this Article,
- 28 the Contractor acknowledges and admits that the Owner will suffer
- 29 damage, and that it is impracticable and infeasible to fix the amount of
- 30 actual damages. Therefore, it is agreed by and between the Contractor
- 31 and the Owner that the Contractor shall pay to the Owner as fixed and
- 32 liquidated damages, and not as a penalty, the sum specified in Section
- 33 005213, Agreement, Article III for each calendar day of delay until the
- 34 Work is completed and accepted, and that both the Contractor and the
- 35 Contractor's surety shall be liable for the total amount thereof, and that the
- 36 Owner may deduct said sums from any monies due or that may become
- 37 due to the Contractor.
- 38
- 39 2. This liquidated damages provision shall apply to all delays of any nature
- 40 whatsoever, save and except only unavoidable delays approved by the
- 41 Owner pursuant to the provisions of Article 2.38.C.2 hereinabove, or
- 42 discretionary time extensions approved by the Board of Supervisors
- 43 pursuant to the provisions of Article 2.38.F hereinabove.

44

45 H. EXTENSION OF TIME NOT A WAIVER.

- 46
- 47 1. Any extension of a Work Order Completion Time granted pursuant to this
- 48 Article shall not constitute a waiver by the Owner, nor a release of the
- 49 Contractor, from his/her obligations to perform a Work Order within the
- 50 allotted Work Order Completion Time.
- 51

1 responsible under the above noted clauses, except damage or loss attributable
2 solely to the acts or omissions of the Owner, the Project Manager, or anyone
3 directly or indirectly employed by any of them, or by anyone for whose acts any
4 of them may be liable, and not attributable in any degree to the fault or negligence
5 of the Contractor. The foregoing obligations of the Contractor are in addition to
6 the Contractor's obligations under the Indemnification provisions provided herein.
7

8 G. The Contractor shall designate a responsible member of the Contractor's
9 organization at the site whose duty shall be the prevention of accidents. This
10 person shall be the Contractor's superintendent unless otherwise designated by
11 the Contractor in writing to the Owner and the Project Manager.
12

13 H. The Contractor shall not load or permit any part of the Work to be loaded
14 in a manner that could endanger its safety or pose a risk to anyone working at
15 the Project site.
16

17 I. EMERGENCIES

18 In any emergency affecting the safety of persons or property the Contractor shall
19 act, at the Contractor's discretion, to prevent threatened damage, injury or loss.
20 Any additional compensation or extension of time claimed by the Contractor on
21 account of emergency work shall be determined as provided in the provisions
22 herein for Changes in the Work.
23

24
25 2.40 INSURANCE

26
27 A. CONTRACTOR'S INSURANCE

28
29 1. Bidders' attention is directed to the insurance requirements below. It is
30 highly recommended that Bidders confer with their respective insurance
31 carriers or brokers to determine in advance of bid submission the
32 availability of the insurance certificates and endorsements required below.
33 A bidder who is awarded a contract and thereafter fails to comply strictly
34 with the insurance requirements, will be deemed to be in default of its
35 obligations.
36

37 2. Contractor shall procure, and maintain for the duration of the Contract, and
38 for 3 years thereafter, insurance against claims for injuries to persons or
39 damage to property which may arise from or in connection with the
40 performance of the work hereunder by the Contractor, his/her agents,
41 representatives, employees or Subcontractors. The cost of such
42 insurance shall be included in the Contractor's bid.
43

44 3. No later than ten (10) calendar days following the Award of the Contract,
45 and prior to execution of the Agreement for Construction by the Owner,
46 the Contractor shall submit certificates of insurance, signed by an
47 authorized agent of the insurer, attesting to insurance coverage of the
48 Contractor as required by this Article.
49

50 B. MINIMUM SCOPE OF INSURANCE.
51

Coverage shall be at least as broad as:

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

C. MINIMUM LIMITS OF INSURANCE.

Contractor shall maintain limits no less than:

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

D. DEDUCTIBLES AND SELF-INSURED RETENTIONS.

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

E. OTHER INSURANCE PROVISIONS.

The policies are to contain, or be endorsed to contain, the following provisions:

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

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

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

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

1 completing the work in full compliance with the terms of the
2 Contract.

3
4 2. Commercial General Liability and Automobile Liability Coverages.

- 5
6 a. The Contractor shall secure Commercial General Liability
7 Insurance with limits of not less than One Million Dollars
8 (\$1,000,000.00) per occurrence and an annual aggregate of Three
9 Million Dollars (\$3,000,000.00). This policy shall be issued on a per
10 occurrence basis. The Owner may require specific coverage
11 including completed operations, product liability, contractual
12 liability, XCU, fire legal liability or any other liability insurance
13 deemed necessary because of the nature of the contract. The
14 Owner, its officers, officials, employees, agents, including
15 Consulting Engineers while performing contract administration
16 services, and volunteers are to be covered as insured as respects
17 all of the following: liability arising out of activities performed by or
18 on behalf of the Contractor, including the insured's general
19 supervision of the Contractor; products and completed operations
20 of the Contractor; premises owned, occupied or used by the
21 Contractor; or automobiles owned, leased, hired or borrowed by or
22 on behalf of the Contractor. The coverage shall contain no special
23 limitations on the scope of protection afforded to the Owner, its
24 officers, officials, employees or volunteers.
25
- 26 b. The Contractor's insurance coverage shall be primary insurance
27 as respects the owner, its officers, officials, employees, agents,
28 Consulting Engineers, and volunteers. Any insurance or self-
29 insurance maintained by the Owner, its officers, officials,
30 Employees, agents, Consulting Engineers, or volunteers shall be
31 in excess of the Contractor's insurance and shall not contribute
32 with it.
33
- 34 c. Any failure to comply with reporting provisions of the policies shall
35 not affect Coverage provided to the Owner, its officers, officials,
36 employees, agents, Engineers, Consulting Engineers, or
37 volunteers.
38
- 39 d. The Contractor's insurance shall apply separately to each insured
40 against whom claim is made or suit is brought, except with respect
41 to the limits of the insurer's liability.
42
- 43 e. Such Commercial General Liability insurance shall name the
44 County of Fresno, its officers, agents, and employees, individually
45 and collectively, as additional insured, but only insofar as the
46 operations under this Agreement are concerned. Such coverage
47 for additional insured shall apply as primary insurance and any
48 other insurance, or self-insurance, maintained by Owner, its
49 officers, agents and employees shall be excess only and not
50 contributing with insurance provided under Contractor's policies
51 herein. This insurance shall not be cancelled or changed without
52 a minimum of thirty (30) days advance written notice given to

1 Owner. Contractor shall obtain endorsements to the Commercial
2 General Liability insurance policy naming Owner as an additional
3 insured and providing for a thirty (30) day prior written notice of
4 cancellation or change in terms or coverage
5

6 f. Comprehensive Automobile Liability Insurance with limits of not
7 less than One Million Dollars (\$1,000,000) per accident for bodily
8 injury and property damage. Coverage should include owned and
9 non-owned vehicles used in connection with this Agreement and
10 all applicable endorsements.
11

12 3. Professional Liability Coverage.
13

14 If Contractor employs licensed professional staff, (e.g., Ph.D., R.N.,
15 L.C.S.W., M.F.C.C.) in providing services, the Contractor shall secure
16 Professional Liability Insurance with limits of not less than one million
17 dollars (\$1,000,000.00) per occurrence, and three million dollars
18 (\$3,000,000.00) annual aggregate, with a provision for three (3) year tail
19 coverage.
20

21 4. Worker's Compensation and Employers Liability Coverage.
22

23 The Contractor shall obtain a policy of Worker's Compensation insurance
24 in accordance with applicable provisions of the California Labor Code.
25 The insurer shall agree to waive all rights of subrogation against the
26 Owner, its officers, officials, employees and volunteers for losses arising
27 from work performed by the Contractor for the Owner. Contractor shall
28 supply the Owner with certificates of insurance in triplicate, evidencing that
29 Workers Compensation Insurance is in effect and providing that the Owner
30 will receive 30 days' notice of cancellation. If Contractor self-insures
31 Workers Compensation, Certificate of Consent to Self-Insure shall be
32 provided to the Owner.
33

34 5. All Coverages.
35

36 Prior to the commencement of performing its obligations under this
37 Agreement, Contractor shall provide certificates of insurance and upon
38 request from Owner, formal endorsements for the foregoing policies, as
39 required herein, to the Owner, listing the name and address of the official
40 who will administer this contract, and stating that such insurance coverage
41 have been obtained and are in full force; that the County of Fresno, its
42 officers, agents and employees will not be responsible for any premiums
43 on the policies; that such Commercial General Liability insurance names
44 the County of Fresno, its officers, agents and employees, individually and
45 collectively, as additional insured, but only insofar as the operations under
46 this Agreement are concerned; that such coverage for additional insured
47 shall apply as primary insurance and any other insurance, or
48 self-insurance, maintained by Owner, its officers, agents and employees,
49 shall be excess only and not contributing with insurance provided under
50 Contractor's policies herein; and each insurance policy required by this
51 Section 2.40 shall be endorsed to state that coverage shall not be
52 suspended, voided, canceled by either party, reduced in coverage or in

limits except after thirty (30) days' prior written notice has been given to the Owner.

F. ACCEPTABILITY OF INSURERS

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

G. VERIFICATION OF COVERAGE

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

H. SUBCONTRACTORS

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

2.41 UNCOVERING WORK

A. This Section shall apply to any Work installed and covered up by the Contractor that is required by the Building Code or other statutory or regulatory requirement to undergo inspection or special inspection and/or testing approval by an appropriate official representing the Owner or other public authority having jurisdiction to conduct such inspection and/or testing or by any requirements specifically expressed in the Contract Documents. Work covered up by the Contractor, Contractor's Subcontractor's or Suppliers prior to inspection/special inspection and/or testing approval shall be uncovered and repaired or replaced after inspection approval at the sole expense of the Contractor. This shall apply to all labor and material needed to complete both physical and cosmetic repairs, and any additional inspection costs associated with restoring the Work.

B. This Section also shall apply to any Work installed and covered up by the Contractor, Contractor's Subcontractor's or Suppliers that is determined by the

1 Owner or its Project Manager, during construction or within the Warranty period,
2 to be defective, broken or inoperative. Work covered up by the Contractor,
3 Contractor's Subcontractor's or Suppliers that is found to be defective, broken or
4 inoperative shall be uncovered and repaired or replaced at the sole expense of
5 the Contractor. This shall apply to all labor and material needed to complete both
6 physical and cosmetic repairs, and any additional inspection costs associated with
7 restoring the Work.
8
9

10 2.42 CORRECTION OF WORK
11

- 12 A. The Contractor shall promptly correct all Work rejected by the Project Manager as
13 defective or as failing to conform to the Contract Documents, whether or not
14 fabricated, installed or completed. The Contractor shall submit a plan of action,
15 within twenty-four (24) hours of notification of the rejected work by the Project
16 Manager, for correcting the rejected work. The Contractor shall bear all costs of
17 correcting such rejected Work, including compensation for the Engineer's and
18 Architect's additional services made necessary thereby.
19
- 20 B. If, within one (1) year after the date of acceptance of the Work as specified in the
21 Notice of Completion, or designated portion thereof, or within one (1) year after
22 acceptance by the Owner of designated equipment, or within such longer period
23 of time as may be prescribed by the terms of any applicable special warranty
24 required by the Contract Documents, any of the Work is found by Owner to be
25 defective or not in accordance with the Contract Documents, the Contractor shall
26 correct it promptly after receipt of a written notice from the Owner to do so, unless
27 the Owner has previously given the Contractor a written acceptance of such
28 condition. This obligation shall survive both final payment for the Work or
29 designated portion thereof and termination of the Contract. The Owner shall give
30 such notice promptly after discovery of the condition.
31
- 32 C. The Contractor shall, at his/her sole expense, remove from the site all portions of
33 the Work that are defective or nonconforming and which have not been corrected
34 under Articles 2.32, 2.42.A, and 2.42.B, unless the Owner waives removal.
35
- 36 D. If the Contractor fails to submit a plan of action, within twenty-four (24) hours of
37 notification of the rejected work by the Project Manager, for correcting the rejected
38 work, or fails to correct defective or nonconforming Work as provided herein in
39 Articles 2.32, 2.42.A, and 2.42.B, the Owner may correct it in accordance with
40 Article 2.08.C.
41
- 42 E. If the Contractor does not take action under the plan to initiate such correction of
43 such defective or nonconforming Work within ten (10) days of written notice from
44 the Project Manager, the Owner may remove it and may store the materials or
45 equipment at the expense of the Contractor. If the Contractor does not pay the
46 cost of such removal and storage within ten (10) days thereafter, the Owner may,
47 upon ten (10) additional days' written notice, sell such Work at auction or at private
48 sale and shall account for the proceeds thereof, after deducting all the costs that
49 should have been borne by the Contractor, including compensation for the Project
50 Manager, Architect, or other Professional's additional services made necessary
51 thereby. If such proceeds of sale do not cover all costs that the Contractor should
52 have borne, the difference shall be charged to the Contractor and an appropriate

1 Supplemental Work Order shall be issued. If the payments then or thereafter due
2 the Contractor are not sufficient to cover such amount, the Contractor shall pay
3 the difference to the Owner.
4

5 F. The Contractor shall bear the cost of making good all work of the Owner or
6 separate contractors destroyed or damaged by such correction or removal.
7

8 G. Nothing contained in this Section 2.42 shall be construed to establish a period of
9 limitation with respect to any other obligation which the Contractor might have
10 under the Contract Documents, including Section 2.32 hereof. The establishment
11 of the time periods noted in this Section 2.42, or such longer period of time as
12 may be prescribed by law or by the terms of any warranty required by the Contract
13 Documents, relates only to the specific obligation of the Contractor to correct the
14 defective or nonconforming Work, and has no relationship to the time within which
15 the Contractor's obligation to comply with the Contract Documents may be sought
16 to be enforced, nor to the time within which proceedings may be commenced to
17 establish the Contractor's liability with respect to the Contractor's obligations other
18 than specifically to correct the defective or nonconforming Work.
19

20
21 2.43 ACCEPTANCE OF DEFECTIVE OR NONCONFORMING WORK
22

23 If the Owner prefers to accept defective or nonconforming Work, the Owner may do so
24 instead of requiring its removal and correction, in which case a Supplemental Work Order
25 will be issued to reflect a reduction in the Work Order Price where appropriate and
26 equitable. Such adjustment shall be effected whether or not final payment has been
27 made. Project Manager shall determine the amount of reduction in the Work Order Price.
28

29
30 2.44 TERMINATION BY THE OWNER
31

32 A. If the Contractor is adjudged bankrupt, or makes a general assignment for the
33 benefit of creditors, or if a receiver is appointed on account of the Contractor's
34 insolvency, or stop notices are served upon the Owner, or if the Contractor
35 persistently or repeatedly refuses or fails, except in cases for which extension of
36 time is provided, to supply enough properly skilled workers or proper materials, or
37 fails to make prompt payment to Subcontractors or for materials or labor, or
38 persistently disregards applicable laws, ordinances, rules, regulations or orders
39 of any public authority having jurisdiction, or otherwise is guilty of a substantial
40 violation of a provision of the Contract Documents, and fails after written notice to
41 commence and continue correction of such default, neglect or violation with
42 diligence and promptness, the Owner upon certification by the Project Manager
43 that sufficient cause exists to justify such action, may, after an additional written
44 notice and without prejudice to any other remedy the Owner may have, terminate
45 the Contract and take possession of all materials, equipment, tools, construction
46 equipment and machinery thereon owned by the Contractor and may finish the
47 Work by whatever methods the Owner may deem expedient. In such case the
48 Contractor shall not be entitled to receive any further payment until the Work is
49 finished.
50

51 B. If the unpaid balance of the Work Order Price exceeds the costs of finishing the
52 Work, including compensation for the Project Manager's and Architect's additional

1 services made necessary thereby, Contractor will only be paid for his/her actual
2 unpaid costs from such excess. If such costs exceed the unpaid balance, the
3 contractor shall pay the difference to the Owner. The amount to be paid to the
4 Contractor or to the Owner, as the case may be, shall be certified by the Project
5 Manager, upon application, in the manner provided in Section 2.24 and this
6 obligation for payment shall survive the termination of the Contract.
7
8

9 2.45 SUBSTITUTION OF MATERIALS

- 10
11 A. When a specific manufacturer, trade name or material is specified, or indicated, it
12 is to establish a standard of quality and shall not be construed as limiting
13 competition. The intent of the Contract Documents is to specify high-grade
14 standard material and equipment, and it is not the intent of these Contract
15 Documents to exclude or omit the products of any responsible manufacturer, if
16 such products are equally acceptable in terms of quality, finish, performance,
17 durability, and serviceability, in the judgment of the Owner and the Architect, to
18 those specified herein. Wherever an article, or any class of materials, is specified
19 by the trade name or by the name of any particular patentee, manufacturer or
20 dealer, it shall be taken as intending to mean and specify the article of material
21 described or any other equal thereto in quality, finish, performance, durability, and
22 serviceability, in the judgment of the Owner and the Architect, for the purpose for
23 which it is or they are intended.
24
25 B. If the Contractor desires to use material or equipment other than that specified,
26 he/she shall submit a request for approval of such substitution, in writing, to the
27 Project Manager by no later than 10 days prior to bid opening. Substitution
28 requests will not be considered if received after the time stipulated.
29
30 C. The Owner does not guarantee that alternative articles, components, materials or
31 equipment other than the item specified by trade name or other specific
32 identification, will fit within the design parameters of the project without alteration
33 of the project design by the Contractor.
34
35 D. The Owner has the right to reject any proposed alternative material which requires
36 alteration of the project design which impacts the safety of the public or the user
37 of a completed facility. If the proposed alternative material requires alteration of
38 the design of the Project or any aspect thereof and said alterations are acceptable
39 to the Owner, the Contractor shall be responsible for performing said alterations
40 at no additional cost to the Owner.
41
42 E. Submittals for approval of substitute materials shall contain sufficient detailed
43 information, descriptive brochures, drawings, samples or other data as is
44 necessary to provide a detailed side-by-side comparison to the specified
45 materials. It is the sole responsibility of the Contractor to submit complete
46 descriptive and technical information so the Project Manager can make proper
47 appraisal. Lack of either proper or sufficient information shall constitute cause for
48 rejection. Reference to product data will not be acceptable.
49
50 F. It is the Contractor's responsibility to confirm and correlate all quantities and
51 dimensions and coordinate with all trades whose work may be affected by the
52 requested substitution.

1
2
3 2.46 REFERENCE TO STANDARDS
4

- 5 A. Reference to known standards shall mean and intend the latest edition or
6 amendment published prior to date of these Specifications, unless specifically
7 indicated otherwise, and to such portions of it that relate and apply directly to the
8 material or installation called for on the Project.
9
10 B. Where material is specified solely by reference to standard specifications, the
11 Contractor shall, if requested by the Project Manager, submit to the Project
12 Manager for his/her approval, data on all such material proposed to be
13 incorporated into the Work of the Contractor, listing the name and address of the
14 vendor, the manufacturer or producer, and the trade or brand names of such
15 materials.
16

17
18 2.47 SPECIFICATIONS
19

- 20 A. The Specifications are organized into Divisions, Sections, and Trade headings
21 based on the Construction Specifications Institute's Master format and the Master
22 format numbering system. This organization shall not control the Contractor in
23 dividing the Work among Subcontractors or in establishing the extent of the Work
24 to be performed by any trade. The Contractor shall be responsible for examining
25 all Sections of the Specifications for inter-related items of the Work, and for
26 furnishing each item identified or specified.
27
28 B. No responsibility will be assumed by the Owner, Architect or the Project Manager
29 for omissions or duplications by the Contractor in the completion of the Contract
30 due to any alleged discrepancy in the arrangement of the material in these
31 Specifications, nor shall any such segregation of work and materials operate to
32 make the Project Manager an arbiter in defining the limits to the agreements
33 between the Contractor and his/her Subcontractors or suppliers.
34
35 C. The misplacement, addition or omission of any letter, word or punctuation mark
36 shall in no way damage the true spirit, intent or meaning of these Specifications.
37
38 D. The words "shown", "indicated", "noted", "scheduled" or words of that effect shall
39 be understood to mean that reference is made to Drawings accompanying these
40 Specifications.
41
42 E. Where reference herein is made to colors or finishes "as selected", the reference
43 is to the Architect with concurrence by the Owner.
44
45

46 2.48 APPROVED APPLICATORS
47

- 48 A. Where specific instructions in these Specifications require that a particular product
49 and/or materials be installed and/or applied by an "approved applicator" of the
50 manufacturer, it shall be the Contractor's responsibility to insure that any
51 Subcontractors used for such work be approved applicators.
52

- 1 B. Contractor accordingly shall bear any and all costs, and shall reimburse Owner
2 for any such costs incurred by Owner, resulting from Contractor's failure to insure
3 the use of an "approved applicator".
4
5

6 2.49 DELIVERY AND STORAGE OF MATERIALS
7

- 8 A. Deliver all manufactured materials in the original packages, containers or bundles
9 (with the seals intact), bearing the name or identification mark of all
10 manufacturers.
11
12 B. Deliver fabrications in as large assemblies as practicable and where specified to
13 be shop-primed or shop-finished; they shall be packaged or crated as required to
14 preserve such priming or finish intact and free from abrasion.
15
16 C. Store all materials in such manner as necessary to properly protect same from
17 damage, as materials or equipment damaged by handling, weather, dirt or from
18 any other cause will not be acceptable.
19
20 D. Store materials so as to cause no obstructions (i.e. stored off all sidewalks and
21 other walkways, roadways, and underground services). The Contractor shall be
22 responsible for protecting from damage all material and equipment furnished
23 under the Contract.
24
25

26 2.50 QUALITY OF WORK
27

- 28 A. Where not more specifically described in any of the various Sections of these
29 Specifications, the quality of work shall conform to all of the methods and
30 operations of best standards and accepted practices of the trade or trades
31 involved, and shall include all items of fabrication, construction, or installation
32 regularly furnished or required for completion of the work (including any finish),
33 and for successful operation as intended of the project and the component thereof
34 corresponding to that work.
35
36 B. All Work shall be executed by mechanics skilled in their respective lines of work.
37
38 C. When completed, all parts shall have been durably and substantially built and
39 shall present a neat, finished appearance.
40
41

42 2.51 HOURS OF WORK
43

- 44 A. Eight (8) hours of labor shall constitute a legal day's work upon all work done
45 hereunder, and it is expressly stipulated that no worker employed at any time by
46 the Contractor, or by a Subcontractor under this Contract, upon the Work, shall
47 be required or permitted to work thereon more than eight (8) hours in any one (1)
48 calendar day and forty (40) hours in any one (1) calendar week, except as
49 provided in Sections 1810-1815 inclusive, of the Labor Code of the State of
50 California, all the provisions of which are deemed to be incorporated herein as if
51 set forth in full; and it is further expressly stipulated that for each and every
52 violation of said last named stipulation, said Contractor shall forfeit, as a penalty

1 to the Owner, fifty dollars (\$50.00) for each worker employed by the Contractor in
2 the execution of this Contract, for each calendar day during which said worker is
3 required or permitted to labor more than eight (8) hours in any one (1) calendar
4 day and forty (40) hours in any one (1) calendar week in violation of any of said
5 provisions of the Labor Code.
6

- 7 B. Notwithstanding the above stipulations, pursuant to Section 1815 of the Labor
8 Code, work performed by employees of contractors in excess of eight (8) hours
9 per day and forty (40) hours during any one (1) week shall be permitted on the
10 Project upon compensation for all hours worked in excess of eight (8) hours per
11 day at not less than one and a half (1 1/2) times the basic rate of pay.
12

13
14 2.52 WAGE RATES
15

- 16 A. All projects under this Contract shall be subject to compliance monitoring and
17 enforcement by the Department of Industrial Relations (DIR), including the
18 obligation to submit certified payroll records directly to the DIR Compliance
19 Monitoring Unit (CMU) at least monthly using the CMU's eCPR system. Detailed
20 information may be obtained on the State of California's Department of Industrial
21 Relations website, www.dir.ca.gov/dlse/cmu/CMU.
22

23 The Contractor shall also submit certified payroll records of the Contractor,
24 Subcontractors and all Sub-subcontractors of any tier to the Project Manager at
25 least monthly.
26

- 27 B. Contractor shall, and shall cause each of its Subcontractors (as defined in Labor
28 Code section 1722.1) to provide written proof that they are currently registered
29 with the California Department of Industrial Relations at the time of bid submittal,
30 and have paid the applicable annual fee and are thereby qualified to submit a bid
31 and to perform public work pursuant to Labor Code section 1725.5, prior to award
32 of this Contract or any subcontract hereunder. No bid shall be accepted, nor shall
33 this Contract or any subcontract hereunder, be entered into without such proof.
34

- 35 C. Pursuant to Section 1770-1780 of the Labor Code of the State of California, the
36 Director of the Department of Industrial Relations has determined the general
37 prevailing rates of wages and rates for legal holidays and overtime in the locality
38 in which this work is to be performed, which under Labor Code Section 1773.1
39 are deemed to include employer payments for health and welfare, pension,
40 vacation, travel time and subsistence pay, and apprenticeship or other authorized
41 training programs, for each craft or type of worker or mechanic needed to perform
42 this contract. Said wage rates are available only at the Fresno County Department
43 of Public Works and Planning, Design Division, and will be made available to any
44 interested person upon request. Minimum wage rates for this Project, as
45 predetermined by the Secretary of Labor, are set forth in the Special Provisions.
46 If there is a difference between the minimum wage rates predetermined by the
47 Secretary of Labor and the Prevailing Wage Rates predetermined by the Director
48 of the Department of Industrial Relations of the State of California for similar
49 classifications of labor, the contractor and his subcontractors shall pay not less
50 than the higher wage rate.
51

1 D. It shall be mandatory upon the Contractor to whom the Contract is awarded, and
2 upon any Subcontractor under him/her to pay not less than the said specified rates
3 to all laborers, workers, and mechanics employed by them in the execution of the
4 Contract, and to pay all laborers, workers and mechanics not less often than once
5 weekly. The Contractor to whom the Contract is awarded shall post a copy of the
6 determination of prevailing wages at the job site. The Contractor shall require all
7 Subcontractors to comply with Sections 1770-1780 of the Labor Code of the State
8 of California and shall insert into every subcontract the requirements contained
9 therein.

10
11 E. The Contractor shall comply with Labor Code Section 1775. In accordance with
12 said Section 1775, it is hereby further agreed that the Contractor shall forfeit to
13 the Owner, as a penalty, fifty dollars (\$50.00) for each laborer, worker, or
14 mechanic employed for each calendar day or portion thereof, who is paid less
15 than the said stipulated rates for any work done under the Contract, by him/her or
16 by any Subcontractor under him/her. The difference between said stipulated rates
17 and the amount paid to each worker for each calendar day or portion thereof for
18 which each worker was paid less than said stipulated rate shall be paid to each
19 worker by the Contractor. The Contractor, and each Subcontractor, shall keep or
20 cause to be kept an accurate record showing the name, address, social security
21 number, work classification, straight time and overtime hours worked each day
22 and week, and the actual per diem wages paid to each journeyman, apprentice,
23 worker or other employee employed by him/her or her in connection with the public
24 work. The records shall be open at all reasonable hours to the inspection of the
25 Owner, to its officers and agents, and to the Division of Labor Law Enforcement
26 of the State Department of Industrial Relations, its deputies and agents, or as
27 otherwise provided by applicable law (including but not limited to Labor Code
28 1776).

29
30 F. In case it becomes necessary for the Contractor or any Subcontractor to employ
31 on the Work under this Contract any person in a trade or occupation (except
32 executive, supervisory, administrative, clerical or other non-manual workers as
33 such) for which no minimum wage rate is specified, the Contractor shall
34 immediately notify the Owner who shall promptly thereafter determine the
35 prevailing rate for such additional trade or occupation from the time of the initial
36 employment of the person affected and during the continuance of such
37 employment.

38
39
40 2.53 APPLICATION OF HIGHEST STANDARDS AND REQUIREMENTS

41
42 Whenever two (2) or more standards or requirements appear in these General Conditions
43 or in any other part of the Contract Documents that form the Contract, the highest
44 standard or requirement shall be applied and followed in the performance under this
45 Contract.

46
47
48 2.54 NONDISCRIMINATION IN EMPLOYMENT

49
50 Contractor shall comply with all Federal and State Laws prohibiting discrimination in
51 employment, including the following:
52

- 1 A. California Fair Labor Code Section 1735, which prohibits discrimination in
2 employment on any basis listed in subdivision (a) of Section 12940 of the
3 Government Code, as those bases are defined in Sections 12926 and 12926.1 of
4 the Government Code, except as otherwise provided in Section 12940 of the
5 Government Code, and applies to all employers, employment agencies and labor
6 organizations.
7
8 B. Title VII of the Federal 1964 Civil Rights Act (42 U.S.C. Section
9 2000e - 2000e - 17) which prohibits employment discrimination on the basis of
10 race, color, sex, religion, or national origin, and applies to all employers that
11 employ at least fifteen (15) workers during each working day in each of twenty
12 (20) or more calendar weeks in the current or preceding year.
13
14 C. In addition to these two (2) laws of general application listed in the immediately
15 preceding paragraphs A and B, there are other Federal and State laws that
16 prohibit employment discrimination in particular cases.
17
18 D. The Owner is an Affirmative Action Employer and expects all of its contractors
19 and suppliers to familiarize themselves with, and comply with, all applicable laws
20 relating to employment discrimination.
21
22 E. To the extent required by law, the Contractor shall meet all requirements of law
23 relating to the participation of minority, women, and disabled veteran business
24 enterprise contracting goals, and shall comply with Public Contract Code 10115
25 et seq. and all applicable regulations. Contractor further agrees that, when
26 required, Contractor shall ensure compliance by all Subcontractors and shall
27 complete all forms required by all agencies exercising jurisdiction over the project.
28
29

30 2.55 APPRENTICES

- 31
32 A. Pursuant to Sections 1770-1780 of the Labor Code of the State of California, the
33 Director of the Department of Industrial Relations has determined the general
34 prevailing rate of wages in the locality for each craft or type of worker needed to
35 execute the work. Said wage rates pursuant to Section 1773.2 of the Labor Code
36 are on file with the Clerk to the Fresno County Board of Supervisors, and will be
37 made available to any interested person on request. A copy of this wage scale
38 may also be obtained at the following Web Site: www.dir.ca.gov/dlsr.
39
40 B. Pursuant to Section 1775 of the Labor Code of the State of California, nothing in
41 this Article shall prevent the employment of properly registered apprentices upon
42 public works. Every such apprentice shall be paid the standard wage paid to
43 apprentices under the regulations of the craft or trade at which he/she is
44 employed, and shall be employed only at the work of the craft or trade to which
45 he/she is registered.
46
47 C. Only apprentices, as defined in Section 3077, who are in training under
48 apprenticeship standards and written apprentice agreements under Chapter 4
49 (commencing at Section 3070), Division 3, of the Labor Code, are eligible to be
50 employed on public works. The employment and training of each apprentice shall
51 be in accordance with the provisions of the apprenticeship standards and
52 apprentice agreements under which he/she is training.

1
2
3 2.56 PROVISIONS REQUIRED BY LAW DEEMED INSERTED
4

5 Every provision of law and clause required by law to be inserted in this contract shall be
6 deemed to be inserted, and this contract shall be read and enforced as though it were
7 included, and if through mistake or otherwise any provision is not inserted or is not
8 correctly inserted, upon application of either party the contract shall be amended to make
9 the insertion or correction.
10

11
12 2.57 DRUG FREE WORKPLACE CERTIFICATION
13

- 14 A. The Contractor shall comply with Government Code Section 8355 in matters
15 relating to providing a drug-free workplace.
16
17 B. The Contractor shall publish a statement notifying employees that unlawful
18 manufacture, distribution, dispensation, possession, or use of controlled
19 substance is prohibited and specifying actions to be taken against employees for
20 violations, as required by Government Code Section 8355(a).
21
22 C. The Contractor shall establish a Drug-Free Awareness Program as required by
23 Government Code 8355(a)(2), to inform employees about all of the following:
24
25 1. The dangers of drug abuse in the workplace,
26
27 2. The Contractor's policy for maintaining a drug-free workplace,
28
29 3. Any available counseling, rehabilitation and employee assistance
30 programs,
31
32 4. Penalties that may be imposed upon employees for drug abuse violations.
33
34 D. Provide as required by Government Code 8355(c), that everyone who provides
35 work under the Agreement.
36
37 1. Will receive a copy of the company's drug-free policy statement, and
38
39 2. Will agree to abide by the terms of the Contractor's statement as a
40 condition of employment on the contract.
41
42

43 2.58 BUILDING PERMIT AND OTHER PERMITS
44

45 The Building permit shall be obtained and paid for by the Owner. All other required
46 permits are the responsibility of the Contractor to obtain. Fees for all other required
47 permits shall be reimbursed to the Contractor at actual cost when the County is presented
48 with a valid receipt.
49

50
51 2.59 CODES AND REGULATIONS
52

1 All work, materials and equipment shall be in full compliance with the California Building
2 Code; California Plumbing Code; California Electrical Code; California Mechanical Code;
3 California Fire Code; California Energy Code; as those codes may be amended from time
4 to time; Cal/OSHA Safety Regulations; all Federal, State and Local laws, ordinances,
5 regulations and Fresno County Charter provisions in effect and applicable in the
6 performance of the work.
7

8
9 2.60 JOB ORDER CONTRACTING SOFTWARE AND LICENSE

10
11 A. Job Order Contracting Software:

12
13 The County of Fresno (County) selected The Gordian Group's (Gordian) Job
14 Order Contracting (JOC) system for the execution of the JOC program. The
15 Gordian JOC system includes Gordian's proprietary eGordian® and Gordian
16 Cloud JOC Applications and Construction Task Catalog®, which shall be used by
17 the Contractor to prepare and submit Job Order Proposals, subcontractor lists,
18 and other requirements specified in the general conditions and as may be
19 requested by the County. The Contractor shall be required to execute Gordian's
20 JOC System License and User Agreement, and shall pay a 1% JOC System
21 License Fee on all work awarded to the JOC contractor by the County for access
22 to the Gordian JOC System.
23

24
25
END OF SECTION

Federal Requirements

FEMA CONTRACT PROVISIONS

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

Equal Employment Opportunity

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

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

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

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

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

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

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

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

FEMA CONTRACT PROVISIONS

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

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

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

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

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

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

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).

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(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

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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.

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).

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