

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

405



FROM: Economic Development Agency / Facilities Management

SUBMITTAL DATE:

October 5, 2011

SUBJECT: 9-1-1 Communications – Public Safety Systems Upgrade - Approve Contract with New Creation Builders

RECOMMENDED MOTION: That the Board of Supervisors:

1. Ratify the membership of the County of Riverside in the National Joint Powers Alliance (NJPA) by authorizing the Chairman of the Board to execute the attached membership agreement;
2. Authorize use of the EZIQC (Easy Indefinite Quantity Contract) sponsored by the NJPA for a construction agreement with New Creation Builders to complete the 9-1-1 Communications – Public Safety Systems Upgrade Project;
3. Approve the plans, specifications and contract documents for the Electrical Mechanical Upgrade Portion (Phase 2B);

REVIEWED BY CIP

Christopher Hans
Christopher Hans

(Continued)

FISCAL PROCEDURES APPROVED

PAUL ANGULO, CPA, AUDITOR-CONTROLLER

BY *Samuel Wong* 9/27/11
SAMUEL WONG

Robert Field

Robert Field

Assistant County Executive Officer/EDA

FINANCIAL
DATA

Current F.Y. Total Cost:

\$ 1,277,864

In Current Year Budget:

Yes

Current F.Y. Net County Cost:

\$ 0

Budget Adjustment:

No

Annual Net County Cost:

\$ 0

For Fiscal Year:

2011/12

COMPANION ITEM ON BOARD OF DIRECTORS AGENDA: No

SOURCE OF FUNDS: Rebanding Credit, Radio Replacement funds

Positions To Be
Deleted Per A-30

☐

Requires 4/5 Vote

☐

C.E.O. RECOMMENDATION:

APPROVE

BY:

Jennifer L. Sargent
Jennifer L. Sargent

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Buster, seconded by Supervisor Stone and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley

Nays: None

Absent: None

Date: October 18, 2011

xc: EDA, Sheriff, Auditor, CIP

Kecia Harper-Ihem
Clerk of the Board

By: *Kecia Harper-Ihem*
Deputy

Prev. Agn. Ref.: 3.17 of 3/01/11; 3.6 of 11/02/10

District: 1

Agenda Number:

3.18

RECOMMENDED MOTION: (Continued)

4. Approve the attached construction agreement between the County of Riverside and New Creation Builders of Bellflower, California, in the amount of \$1,277,864 and authorize the Chairman of the Board to execute the agreement on behalf of the county;
5. Authorize the Assistant County Executive Officer/EDA to administer the agreement in accordance with applicable Board policies; and
6. Delegate project management authority for this project to the Assistant County Executive Officer/EDA in accordance with applicable policies.

BACKGROUND:

On March 1, 2011, the Board of Supervisors authorized the Assistant County Executive Officer/EDA to utilize every means necessary per Board Policy B11 to execute temporary, interim, and permanent repairs and upgrades to the failed uninterrupted power source (UPS) system and supporting infrastructure at the 9-1-1 communication building in Riverside.

The county's consultant for Job Order Contracting (JOC), the Gordian Group, brought the contracting method called EZIQC (Easy Indefinite Quantity Contract) to the attention of EDA as a possible means of delivering the final phase of this project as quickly as possible.

The NJPA (National Joint Powers Alliance) conducted a bidding process in 2008. The resulting contract allows government entities from all over the United States to access and use the contract. The contractor who won the bid in the area, that includes the County of Riverside, is New Creation Builders, which also has a current Job Order Contract at University of California - Riverside (UCR). The Gordian Group is also the consultant that provides coordination and oversight to the EZIQC contract, but their consulting fee is paid directly by NJPA. The County of Riverside pays no consulting fee when utilizing this contract. Membership with NJPA is required to utilize the EZIQC contract, but is free to the County of Riverside.

All costs associated with this agreement will be fully funded by Rebanding Credit, Radio Replacement funds and RCIT funds.

WORK ORDER AGREEMENT FORM

THIS WORK ORDER, entered into this 18th day of October, 2011, by and between New Creation Builders, hereinafter called the "Contractor", and the County of Riverside hereinafter called the "Owner".

WITNESSETH: That the parties hereto have mutually covenanted and agreed as follows:

CONTRACT: The Complete Contract includes all of the Contract Documents, to wit: NJPA Membership Agreement, NJPA Indefinite Quantity Construction Agreement, NJPA EZIQC Contract Documents, EZIQC Work Order & Detailed Scope of Work documents, Wage Schedule, Payment and Performance Bonds, the Construction Task Catalog and Technical Specifications plus any Addenda thereto, the General Conditions, the Supplementary General Conditions, Plans and Specifications and this Work Order Agreement. All Contract Documents are intended to cooperate and be complimentary so that any work called for in one and not mentioned in the other, or vice versa, is to be executed the same as if mentioned in all Contract Documents. Where any conflicts might arise between the NJPA EZIQC Contract Documents and the County's General Conditions, all County documents shall take precedence.

STATEMENT OF WORK: The Contractor hereby agrees to furnish all tools, equipment, services, apparatus, facilities, transportation, labor and materials for the Completion of Phase 2B of the 9-1-1 Communications-Public Safety Systems Infrastructure Upgrade. In strict accordance with the Plans and Specifications dated May 2011 prepared by SC Engineers & the County of Riverside hereinafter called the "architect", including NJPA-EZIQC Contract Documents, the Construction Task Catalogue also including Addenda thereto as listed in the NJPA Indefinite Quantity Construction Agreement, all of which are made a part hereof.

TIME FOR COMPLETION: The work shall be commenced on a date to be specified in a written order of the Owner and shall be completed within one hundred and five (105) calendar days from and after said date. It is expressly agreed that except for extensions of time duly granted in the manner and for the reasons specified in the General Conditions, time shall be of the essence.

COMPENSATION TO BE PAID TO CONTRACTOR: The Owner agrees to pay and the Contractor agrees to accept in full consideration for the performance of this Work Order, subject to additions and deductions as provided in the General Conditions and contract documents, the sum of one million, two hundred seventy seven thousand, eight hundred sixty four dollars (\$1,277,864) being the total of the base EZIQC Work Order Proposal and the Alternate 2 EZIQC Work Order Proposal. The sum to be paid according to the scheduled as provided in the General Conditions.

Pursuant to Labor Code, Section 1861, the Contractor gives the following certification: I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this Contract.

IN WITNESS WHEREOF, the parties hereto on the day and year first above written have executed this agreement in four (4) counterparts.

Type of Contractor's organization: Corporation

If other than individual or corporation, list names of all members who have authority to bind firm.

Firm Name: NEW CREATION BLDG. & BUILDERS, INC.
Address: 17809 CLARK AVE, PLANTATION, CA 90706
Contractor's License No.: 768842

IF OTHER THAN CORPORATION EXECUTE HERE

Signature: _____

Title: _____

IF CORPORATION, FILL OUT FOLLOWING AND EXECUTE

Name of President of Corporation: Brian Chen

Name of Secretary of Corporation: Esther Chen

Corporation is organized under the laws of State of CA

Signature: _____

Title: President

Owner: COUNTY OF RIVERSIDE

Signature: Bob Buster

Title: Chairman - Board of Supervisors **BOB BUSTER**

Attest: Clerk - Board of Supervisors Kecia Harper-Them

By: Neal R. Kipnis

Title: Deputy

Affix Seal

If

Corporation

FORM APPROVED COUNTY COUNSEL
BY: Neal R. Kipnis 11/22/11
NEAL R. KIPNIS DATE

OCT 18 2011 3:18

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of LA

On 9/22/11 before me, Chris Chun, Notary Public
(Here insert name and title of the officer)

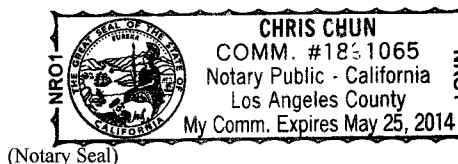
personally appeared Brian Chun

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public



(Notary Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
☐ Corporate Officer

(Title)

- ☐ Partner(s)
☐ Attorney-in-Fact
☐ Trustee(s)
☐ Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/they, is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

Bond No. 024035856

Premium listed on Performance Bond

Executed in Five Originals

PAYMENT BOND

(Public Work - Civil Code Section 3247 et seq.)

New Creation Engineering & Builders Inc.

The makers of this Bond are dba New Creation Builders as Principal and Original Contractor and Liberty Mutual Insurance Company, a corporation, authorized to issue Surety Bonds in California, as Surety, and this Bond is issued in conjunction with that certain public works, EZIQC contract dated _____, 2011 between Principal and County of Riverside, a public entity, as owner, for one million, two hundred seventy seven thousand, eight hundred sixty four dollars (\$1,277,864) the total amount payable. THE AMOUNT OF THIS BOND IS 100% OF SAID SUM. Said contract is for public work of: Phase 2B of the 9-1-1 Communications Public Safety Infrastructure Upgrade.

The beneficiaries of this Bond are as is stated in 3248 of the Civil Code and the requirements and conditions of this Bond are as is set forth in Sections 3248, 3249, 3250 and 3252 of said Code. Without notice, Surety consents to extension of time for performance, change in requirements, amount of compensation, or prepayment under said Contract.

Signed and Sealed this 14th Day of September 2011.

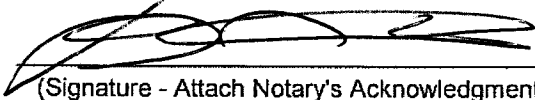
New Creation Engineering & Builders Inc.
dba New Creation Builders

(Firm Name - Principal)

17809 Clark Ave, Bellflower, CA 90706

(Business Address)

By:



(Signature - Attach Notary's Acknowledgment)

PRESIDENT

(Title)

Affix Seal

if

Corporation

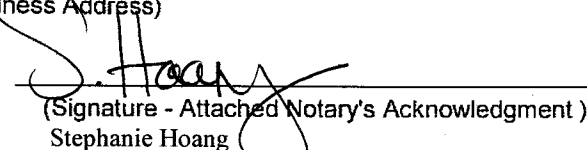
Liberty Mutual Insurance Company

(Corporation Name - Surety)

175 Berkeley Street, Boston, MA 02116

(Business Address)

By:



(Signature - Attached Notary's Acknowledgment)

Stephanie Hoang

ATTORNEY-IN-FACT

(Title-Attach Power of Attorney)

Affix

Corporate
Seal

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Los Angeles

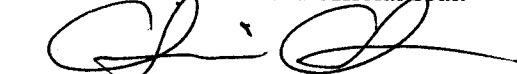
On 9/21/11 before me, Chris Chun,
(Here insert name and title of the officer)

personally appeared Brian Chun

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

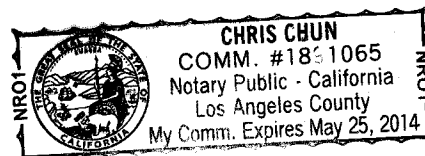
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature of Notary Public

(Notary Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual(s)
☐ Corporate Officer

(Title)

- ☐ Partner(s)
☐ Attorney-in-Fact
☐ Trustee(s)
☐ Other _____

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- Securely attach this document to the signed document

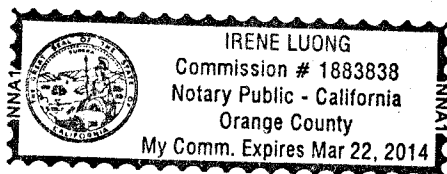
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

County of Orange }

On 9/14/11 before me, Irene Luong, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Stephanie Hoang
Name(s) of Signer(s)



Place Notary Seal Above

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature [Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Stephanie Hoang

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☒ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

**RIGHT THUMBPRINT
OF SIGNER**

Top of thumb here

Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

**RIGHT THUMBPRINT
OF SIGNER**

Top of thumb here

PREMIUM IS FOR THE CONTRACT TERM AND IS SUBJECT
TO ADJUSTMENT BASED ON FINAL CONTRACT PRICE

Bond No. 024035856 ...
Premium: \$14,245.00
Executed in Five Originals

PERFORMANCE BOND

The makers of this Bond, New Creation Engineering & Builders Inc.
dba New Creation Builders, as Principal, and
Liberty Mutual Insurance Company as Surety, are held and firmly bound unto County of
Riverside, hereinafter called the Owner, in the sum of one million, two hundred seventy seven thousand,
eight hundred sixty four dollars (\$1,277,864) for the payment of which sum well and truly to be made, we
bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these
presents.

The condition of this obligation is such that whereas the Principal entered into a certain contract, hereto
attached, with the Owner, dated _____, 2011 for Phase 2B of the 9-1-1 Communications
Public Safety Infrastructure Upgrade.

Now therefore, if the Principal shall well and truly perform and fulfill all the undertakings covenants, terms,
conditions and agreements of said Contract during the original term of said Contract and any extension
thereof that may be granted by the Owner, with or without notice to the Surety, and during the file of any
guarantee required under the Contract, and shall also well and truly perform and fulfill all the
undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications
of said Contract that may thereafter be made, then this obligation to be void, otherwise to remain in full
force and virtue. Without notice, Surety consents to extension of time for performance, change in
requirements, change in compensation or prepayment under said Contract.

Signed and Sealed this 14th Day of September, 2011.

New Creation Engineering & Builders Inc.
dba New Creation Builders

(Firm Name - Principal)
17809 Clark Ave, Bellflower, CA 90706

Seal

(Business Address)

By:

(Signature - Attach Notary's Acknowledgment)

PRESIDENT
(Title)

Affix

if
Corporation

Liberty Mutual Insurance Company

(Corporation Name - Surety)

175 Berkeley Street, Boston, MA 02116

(Business Address)

By:

(Signature - Attach Notary's Acknowledgment)

Stephanie Hoang

ATTORNEY-IN-FACT

(Title-Attach Power of Attorney)

Affix

Corporate
Seal

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Los Angeles

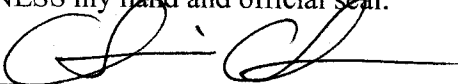
On 9/24/11 before me, Chris Chun,
(Here insert name and title of the officer)

personally appeared Brian Chun

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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WITNESS my hand and official seal.



Signature of Notary Public

(Notary Seal)



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(Title or description of attached document continued)

Number of Pages _____ Document Date _____

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
☐ Corporate Officer

(Title)

- ☐ Partner(s)
☐ Attorney-in-Fact
☐ Trustee(s)
☐ Other _____

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- Securely attach this document to the signed document

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

County of Orange

On

9/14/11

Date

before me,

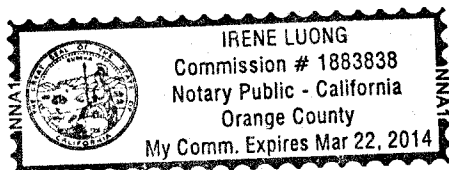
Irene Luong, Notary Public

Here Insert Name and Title of the Officer

personally appeared

Stephanie Hoang

Name(s) of Signer(s)



Place Notary Seal Above

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature

Signature of Notary Public

OPTIONAL

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Description of Attached Document

Title or Type of Document: _____

Document Date: _____

Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Stephanie Hoang

☐ Individual

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☒ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

**RIGHT THUMBPRINT
OF SIGNER**

Top of thumb here

Signer's Name: _____

☐ Individual

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

**RIGHT THUMBPRINT
OF SIGNER**

Top of thumb here

THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS PRINTED ON RED BACKGROUND.

4820377

This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

LIBERTY MUTUAL INSURANCE COMPANY
BOSTON, MASSACHUSETTS
POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS: That Liberty Mutual Insurance Company (the "Company"), a Massachusetts stock insurance company, pursuant to and by authority of the By-law and Authorization hereinafter set forth, does hereby name, constitute and appoint **SHAWN BLUME, ERIC LOWEY, MARK RICHARDSON, STEPHANIE HOANG, ALL OF THE CITY OF COSTA MESA, STATE OF CALIFORNIA**.....

....., each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations in the penal sum not exceeding **FIFTY MILLION AND 00/100***** DOLLARS (\$ 50,000,000.00*****)** each, and the execution of such undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents, shall be as binding upon the Company as if they had been duly signed by the president and attested by the secretary of the Company in their own proper persons.

That this power is made and executed pursuant to and by authority of the following By-law and Authorization:

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

By the following instrument the chairman or the president has authorized the officer or other official named therein to appoint attorneys-in-fact:

Pursuant to Article XIII, Section 5 of the By-Laws, David M. Carey, Assistant Secretary of Liberty Mutual Insurance Company, is hereby authorized to appoint such attorneys-in-fact as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

That the By-law and the Authorization set forth above are true copies thereof and are now in full force and effect.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Company and the corporate seal of Liberty Mutual Insurance Company has been affixed thereto in Plymouth Meeting, Pennsylvania this day of 30th day of August, 2011.



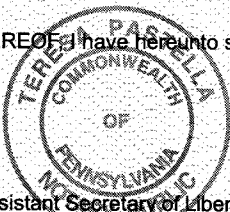
LIBERTY MUTUAL INSURANCE COMPANY

By David M. Carey
David M. Carey, Assistant Secretary

COMMONWEALTH OF PENNSYLVANIA ss
COUNTY OF MONTGOMERY

On this 30th day of August, 2011, before me, a Notary Public, personally came David M. Carey, to me known, and acknowledged that he is an Assistant Secretary of Liberty Mutual Insurance Company; that he knows the seal of said corporation; and that he executed the above Power of Attorney and affixed the corporate seal of Liberty Mutual Insurance Company thereto with the authority and at the direction of said corporation.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at Plymouth Meeting, Pennsylvania, on the day and year first above written.



Notarial Seal
Teresa Pastella, Notary Public
Plymouth Twp., Montgomery County
My Commission Expires Mar. 28, 2013
Member, Pennsylvania Association of Notaries

By Teresa Pastella
Teresa Pastella, Notary Public

CERTIFICATE

I, the undersigned, Assistant Secretary of Liberty Mutual Insurance Company, do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy, is in full force and effect on the date of this certificate; and I do further certify that the officer or official who executed the said power of attorney is an Assistant Secretary specially authorized by the chairman or the president to appoint attorneys-in-fact as provided in Article XIII, Section 5 of the By-laws of Liberty Mutual Insurance Company.

This certificate and the above power of attorney may be signed by facsimile or mechanically reproduced signatures under and by authority of the following vote of the board of directors of Liberty Mutual Insurance Company at a meeting duly called and held on the 12th day of March, 1980.

VOTED that the facsimile or mechanically reproduced signature of any assistant secretary of the company, wherever appearing upon a certified copy of any power of attorney issued by the company in connection with surety bonds, shall be valid and binding upon the company with the same force and effect as though manually affixed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the said company, this 14th day of September, 2011.



By Gregory W. Davenport
Gregory W. Davenport, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, bank deposit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.


**CONTRACTOR'S CERTIFICATE
REGARDING WORKERS' COMPENSATION**

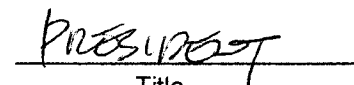
Labor Code Section 3700

Every employer, except the State and all political subdivisions or institutions thereof, shall secure the payment of compensation in one or more of the following ways:

- (a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this State.
- (b) By securing from the Director of Industrial Relations, a Certificate of Consent to Self-Insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees

I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of this Contract.


Principal

Principal

Title

(In accordance with Article 5 [commencing at Section 1860], Chapter, Part 7, Division 2 of the Labor Code, the above Certificate must be signed and filed with the Owner prior to performing any work under this Contract.)



P.O. BOX 420807, SAN FRANCISCO, CA 94142-0807

CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

ISSUE DATE: 09-13-2011

GROUP: 000719
POLICY NUMBER: 0000726-2010
CERTIFICATE ID: 21
CERTIFICATE EXPIRES: 02-01-2012
02-01-2011/02-01-2012

COUNTY OF RIVERSIDE - EDA
JOHN ALFRED
3403 10TH ST STE 500
RIVERSIDE CA 92501-3658

SC

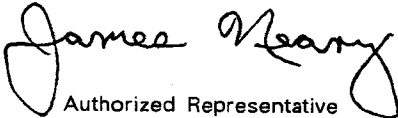
JOB: PROJECT # 08720000043-PHASE II B
7195 ALESSANDRO BOULEVARD
RIVERSIDE
CA 92506

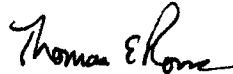
This is to certify that we have issued a valid Workers' Compensation insurance policy in a form approved by the California Insurance Commissioner to the employer named below for the policy period indicated.

This policy is not subject to cancellation by the Fund except upon 10 days advance written notice to the employer.

We will also give you 10 days advance notice should this policy be cancelled prior to its normal expiration.

This certificate of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policy listed herein. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate of insurance may be issued or to which it may pertain, the insurance afforded by the policy described herein is subject to all the terms, exclusions, and conditions, of such policy.


Authorized Representative


President and CEO

EMPLOYER'S LIABILITY LIMIT INCLUDING DEFENSE COSTS: \$1,000,000 PER OCCURRENCE.

ENDORSEMENT #0015 ENTITLED ADDITIONAL INSURED EMPLOYER EFFECTIVE 2011-09-13 IS
ATTACHED TO AND FORMS A PART OF THIS POLICY. NAME OF ADDITIONAL INSURED:
COUNTY OF RIVERSIDE - EDA

EMPLOYER

NEW CREATION ENGINEERING & BUILDERS INC AND/OR
V2R INC.
17809 CLARK AVE
BELLFLOWER CA 90706

[B1I,SC]

**Riverside County Board of Supervisors
Request to Speak**

Submit request to Clerk of Board (right of podium),
Speakers are entitled to three (3) minutes, subject
Board Rules listed on the reverse side of this form.

SPEAKER'S NAME Cynthia L. Ferry

Address: 16115 Rocky Bluff Rd.
(only if follow-up mail response requested)

City: Gavilan Hills **Zip:** 92570-7471

Phone #: (951) 657-6610

Date: 10-18-2011 **Agenda #** 3.18

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

 Support **Oppose** X **Neutral**

Note: If you are here for an agenda item that is filed
for "Appeal", please state separately your position on
the appeal below:

 Support **Oppose** **Neutral**

I give my 3 minutes to: _____

SPECIFICATIONS AND CONTRACT DOCUMENTS
FOR

PHASE 2B, 911 COMMUNICATIONS PUBLIC SAFETY
SYSTEMS INFRASTRUCTURE UPGRADE
DELIVERED VIA NJPA, EZIQC



PREPARED BY
COUNTY OF RIVERSIDE
ECONOMIC DEVELOPMENT AGENCY
PROJECT MANAGEMENT OFFICE
August 2011

TABLE OF CONTENTS

NJPA Membership Agreement	1 Page
NJPA Indefinite Quantity Construction Agreement	3 Pages
NJPA, EZIQC Contract Documents	86 Pages
EZIQC Work Order & Detailed Scope Documents	14 Pages
Agreement Form	2 Pages
Payment Bond	1 Page
Performance Bond	1 Page
Contractor's Certificate Regarding Workers' Compensation	1 Page
General Conditions	42 Pages
Construction Task Catalog and Technical Specifications	Attached CD

**MEMBERSHIP AGREEMENT
PARTICIPATING MEMBER**



This Agreement, made and entered into this 1 day of September, 2011,
by and between National Joint Powers Alliance®, hereinafter referred to as "NJPA" and
County of Riverside, CA hereinafter referred to as the "Applicant".

Witnesseth:

That for a good and valuable consideration of the premises, mutual terms, covenants, provisions, and conditions hereafter set forth, it is agreed by and between the parties as follows:

Whereas, the NJPA is created by Minnesota Statute §123A.21 (with membership further defined in M.S. §471.59) to serve cities, counties, towns, public or private schools, political subdivisions of Minnesota or another state, another state, any agency of the State of Minnesota or the United States including instrumentalities of a governmental unit and all non-profits; and

Whereas, NJPA's purpose as defined in M.S. §123A.21 is to assist in meeting specific needs of clients which could be better provided by NJPA than by the members themselves; and

Whereas, the NJPA Board of Directors has established the ability for an "Applicant" desiring to participate in NJPA contracts and procurement programs to become a Participating Member; and

Whereas, the NJPA Board of Directors has determined that Participating Members will have no financial or organizational liability to NJPA or to its organizational activities;

Now Therefore, it is hereby stipulated and agreed that the "Applicant" Agency desires to be a Participating Member of NJPA with contract purchasing benefits, in accordance with terms and conditions of the applicable contract(s), and that NJPA hereby grants said Membership to said "Applicant."

Term:

This continuing agreement shall remain in force or until either party elects to dissolve the Agreement by written notice.

THEREFORE, IN WITNESS THEREOF,

the parties hereto have executed this Agreement the day and year written above.

Member Name:

By Bob Buster
AUTHORIZED SIGNATURE
BOB BUSTER
Its CHAIRMAN, BOARD OF SUPERVISORS
TITLE
OCT 18 2011
DATE

National Joint Powers Alliance®
200 1st Street NE, Suite 1
Staples, MN 56479

[Signature]
AUTHORIZED SIGNATURE
EXECUTIVE DIRECTOR
TITLE
9/1/11
DATE

FORM APPROVED COUNTY COUNSEL
BY: [Signature] 9/22/11
NEAL R. KIPNIS DATE

ATTEST:

KECIA HARPER-JHEM, Clerk

By [Signature]
DEPUTY

09/21/2010

OCT 18 2011 3:18



National Joint Powers Alliance®

INDEFINITE QUANTITY CONSTRUCTION AGREEMENT

IFB NUMBER: CA02-B3-111808
GEOGRAPHIC AREA INLAND EMPIRE

This Agreement dated 11-18-08, by and between the National Joint Powers Alliance,

hereinafter referred to as NJPA and NEW CREATIONS BUILDERS
at the following address 1724 CLARK AVE. BAKERSFIELD, CA 93306

hereinafter referred to as the CONTACTOR.

WITNESSETH: NJPA and CONTRACTOR for the consideration hereafter agree as follows:

ARTICLE 1. CONTRACT DOCUMENTS

- A. The Contract Documents consist of this Agreement; the IFB Documents (Book 1 - Project Information, Instructions to Bidders and Execution Documents; Book 2 - IQCC Standard Terms and Conditions and IQCC General Conditions; Book 3 - Construction Task Catalog (CTC), Book 4 - Technical Specifications) and Addenda thereto, the Bid Deposit, all payment and performance bonds (if any), material and workmanship bonds (if any); wage rate decisions and certified payroll records (if any), Notice of Award, and all Purchase Orders and accompanying documents (Requests for Proposals, Detailed Scopes of Work, Work Order Proposal Packages, etc.) issued hereunder.
- B. The terms and conditions of a Purchase Order issued by an NJPA Member in connection with any Work Order, including supplemental technical specifications referenced therein, shall govern.

ARTICLE 2. SCOPE OF WORK

- A. The Contractor shall provide the services required to develop each Work Order in accordance with the procedures for developing Work Orders set forth in the IQCC Standard Terms and Conditions and the Contract Documents.
- B. Each Work Order developed in accordance with this Agreement will be issued in connection with a Purchase Order by an individual NJPA Member. The Purchase Order will reference the Work Order and require the Contractor to perform the Detailed Scope of Work within the Work Order Completion Time for the Work Order Price.
- C. It is anticipated that the Contractor will perform Work primarily in the Geographic Area set forth above. However, the parties may agree that the Contractor can perform Work in a different Geographic Area at its current Adjustment Factors.

ARTICLE 3. THE AGREEMENT PRICE

- A. This Agreement is an indefinite-quantity contract for construction work and services. The Estimated Annual Value of this Agreement is \$ 3,000,000.
- B. The Contractor shall perform any or all Tasks in the Construction Task Catalog (CTC) for the unit price appearing therein multiplied by the following Adjustment Factors:
 - a. Normal Working Hours (7:00 am to 4:00 pm Monday to Friday, except holidays) Adjustment Factor:
0.9600
(Specify to four (4) decimal places)
 - b. Other Than Normal Working Hours (4:00 pm to 7:00 am Monday to Friday, and all day Saturday, Sunday and Holidays) Adjustment Factor:
0.9000
(Specify to four (4) decimal places)
 - c. Non Pre-priced Adjustment Factor:
1.2000 NYC
(Specify to four (4) decimal places)

ARTICLE 4. TERM OF THE AGREEMENT

- A. The term shall be four years. The Contractor may withdraw from the Agreement on each anniversary of the award, provided that the Contractor gives 60 Days written notice of its intent to withdraw. NJPA may, for any reason, terminate this Agreement at any time.
- B. All Purchase Orders issued during a term of this Agreement shall be valid and in effect notwithstanding that the Detailed Scope of Work may be performed, payments may be made, and the guarantee period may continue, after such term has expired. All terms and conditions of the Agreement apply to each Purchase Order.

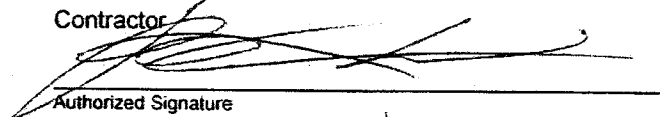
IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

By:

National Joint Powers Alliance


Authorized Signature

Contractor


Authorized Signature

Print Name

James A. Walcott

Contract Number: _____ (assigned by NJPA)

CA07-B3-111808-NLB



**THE
GORDIAN
GROUP®**



CONSTRUCTION PROCUREMENT SIMPLIFIED™



National Joint Powers Alliance®

Contract Documents

CONTRACT NO.

CA01-B1-111808, CA01-B2-111808, CA01-B3-111808, CA01-B4-111808,
CA02-B1-111808, CA02-B2-111808, CA02-B3-111808, CA02-B4-111808,
CA03-B1-111808, CA03-B2-111808, CA03-B3-111808

INDEFINITE QUANTITY CONSTRUCTION CONTRACT

200 First Street NE
Staples, MN 56479

Mr. Gregg Meierhofer
Coordinator of Bids and Contracts
gregg.meierhofer@njpacoop.org

October 2008

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National Joint Powers Alliance®

Invitation for Bid

Indefinite Quantity Construction Contract

Contract #	California Contractor's License	Bid Due Date and Time	Bid Bond	Estimated Annual Value	Term
CA01-B1-111808	B	4:00 PM 11/18/08	\$25,000	\$3,000,000	4 Years
CA01-B2-111808	B	4:00 PM 11/18/08	\$25,000	\$3,000,000	4 Years
CA01-B3-111808	B	4:00 PM 11/18/08	\$25,000	\$3,000,000	4 Years
CA01-B4-111808	B	4:00 PM 11/18/08	\$25,000	\$3,000,000	4 Years
CA02-B1-111808	B	4:00 PM 11/18/08	\$25,000	\$3,000,000	4 Years
CA02-B2-111808	B	4:00 PM 11/18/08	\$25,000	\$3,000,000	4 Years
CA02-B3-111808	B	4:00 PM 11/18/08	\$25,000	\$3,000,000	4 Years
CA02-B4-111808	B	4:00 PM 11/18/08	\$25,000	\$3,000,000	4 Years
CA03-B1-111808	B	4:00 PM 11/18/08	\$25,000	\$3,000,000	4 Years
CA03-B2-111808	B	4:00 PM 11/18/08	\$25,000	\$3,000,000	4 Years
CA03-B3-111808	B	4:00 PM 11/18/08	\$25,000	\$3,000,000	4 Years

Bids will be received at the offices of the: National Joint Powers Alliance®, 200 First Street NE, Staples, MN 56479

The National Joint Powers Alliance® (NJPA) issues this Invitation For Bid (IFB) to provide Indefinite Quantity Construction Contracting (IQCC) services to NJPA, and current and qualified NJPA government, education, and non-profit Members in the areas of; CA01-Los Angeles Area, CA-02-Inland Empire, and CA03-San Diego Area. CA01 includes the counties Santa Barbara, Ventura, Orange & Los Angeles. CA-02-Inland Empire includes the counties of San Bernardino and Riverside. CA-03-San Diego Area includes the counties of San Diego and Imperial It is the intention of NJPA to award the contracts: CA01-B1, CA01-B2, CA01-B3, CA01-B4, CA02-B1, CA02-B2, CA03-B3, CA02-B4, CA03-B1, CA03-B2, and CA03-B3 for construction services in this area. Each contract has an estimate annual value of \$3,000,000 and a contract term of four years.

IQCC is a construction contracting procurement system that provides facility owners' access to competitively bid "on-call" general contractors to provide immediate construction services over an extended period of time.

The contract will be awarded on the basis of the lowest responsive, responsible bid. Lowest bid will be determined by the Combined Adjustment Factor. Bidder must possess the appropriate California Contractor's licenses as listed in the table above. Bidders cannot be awarded more than one contract in each NJPA IQCC region.

Intending bidders are required to attend a pre-bid seminar for the purpose of discussing the IQCC procurement system, the contract documents, and bid forms. The mandatory pre-bid seminar will be held as follows:

10/28/2008 10:00 a.m. Renaissance Agoura Hills 301100 Agoura Road, Agoura Hills, CA 91301
10/30/2008 10:00 a.m. Courtyard Riverside 1510 University Avenue, Riverside, CA 92507
10/31/2008 10:00 a.m. Ramada Conference Center 5550 Kearny Mesa Road, San Diego, CA 92111

An electronic (CD) copy of the IFB Documents which include the instructions for submitting a bid and the bid documents may be obtained by letter of request to Gregg Meierhofer, NJPA, 200 First St. Northeast, Staples, MN 56479, or by email request to EZIQC@NJPACOOOP.org. All requests must include mailing address, email address, contact name, and phone number. Bids are due by 4:00 p.m. CST on 11/18/08 and will be opened at 9:00 a.m. on 11/19/08 IFB's will be available until the bid opening date of November 19, 2008.



**THE
GORDIAN
GROUP®**



CONSTRUCTION PROCUREMENT SIMPLIFIED™



National Joint Powers Alliance®

Book 1

Project Information, Instructions to Bidders, and Execution Documents

CONTRACT NO.

CA01-B1-111808, CA01-B2-111808, CA01-B3-111808, CA01-B4-111808,
CA02-B1-111808, CA02-B2-111808, CA02-B3-111808, CA02-B4-111808,
CA03-B1-111808, CA03-B2-111808, CA03-B3-111808

INDEFINITE QUANTITY CONSTRUCTION CONTRACT

200 First Street NE
Staples, MN 56479

Mr. Gregg Meierhofer
Coordinator of Bids and Contracts
gregg.meierhofer@njpacoop.org

October 2008

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BOOK 1

Table of Contents

SECTION ONE - PROJECT INFORMATION	1
1. DEFINITIONS	1
2. ABOUT THE NATIONAL JOINT POWERS ALLIANCE® (NJPA)	2
3. DEFINED GOALS OF THE IFB	2
4. IQCC OVERVIEW	3
5. GEOGRAPHIC AREAS	3
6. THE IFB Documents.....	3
7. QUALIFICATION OF BIDDERS	3
8. AWARD	4
9. ASSIGNMENT OF WORK.....	4
10. ORDER OF PRECEDENCE OF THE COMPONENTS OF THE CONTRACT DOCUMENTS	4
SECTION TWO - INSTRUCTIONS TO BIDDERS	5
1. GENERAL INFORMATION	5
2. SOLICITATION OF IFB	5
3. ADVERTISING OF SOLICITATION	5
4. REQUEST FOR INFORMATION (RFI)	6
5. MANDATORY PRE-BID SEMINAR	6
6. ADDENDA TO THE IFB DOCUMENTS	6
7. BID DEPOSIT	6
8. BID SUBMISSION PROCESS	7
9. CONTRACTOR'S MANAGEMENT PLAN	7
10. BID PRICING	8
11. BID DOCUMENT CHECKLIST	9
12. BID TRANSMITTAL	10
13. MODIFICATION OR WITHDRAWAL OF A SUBMITTED BID	10
14. BIDDER RESPONSIVENESS	10
15. CERTIFICATION	11
16. PROTESTS	11
17. PUBLIC RECORD	12
18. PREVAILING WAGE RATES	12
19. MARKETING REQUIREMENT	12
20. MEMBER SIGN-UP PROCEDURE	12
21. FEES 13	
22. PHYSICAL PRESENCE	13
SECTION THREE - BID FORMS	15
BID FORM 1: THE ADJUSTMENT FACTORS	15
BID FORM 2: CALCULATION OF THE COMBINED ADJUSTMENT FACTOR	19

NATIONAL JOINT POWERS ALLIANCE®
Book 1 – Project Information, Instructions to Bidders and Execution Documents

BID FORM 3: BID DEPOSIT	21
BID FORM 4: BIDDER ASSURANCE OF COMPLIANCE.....	23
BID FORM 5: MANAGEMENT PLAN	27
BID FORM 6: CERTIFICATE OF GOOD STANDING	29
BID FORM 7: CERTIFICATE OF SECRETARY	31
BID FORM 8: BONDING COMPANY STATEMENT.....	33
BID FORM 9: FINANCIAL STATEMENT	35
BID FORM 10: FULL-SERVICE OFFICE LOCATION AFFIDAVIT	37
BID FORM 11: INDEFINITE QUANTITY CONSTRUCTION AGREEMENT.....	39
SECTION FOUR - EXHIBITS	47
EXHIBIT A: MAP	47

NJPA is a trademark of the National Joint Powers Alliance®. EZIQC, Construction Task Catalog and PROGEN are trademarks of their respective owners.

SECTION ONE - PROJECT INFORMATION

1. DEFINITIONS

- 1.1 National Joint Powers Alliance® (NJPA):** NJPA is a Minnesota Service Cooperative Created by Minnesota Legislative Statute 123A.21 with the directive and commitment to offer, among other things, procurement services to its membership. Eligible membership includes cities, counties, governmental agencies, both public and private educational agencies, colleges, universities, and non-profit organizations. This Minnesota Statute also allows for service to NJPA Member agencies in Minnesota and all other states. To this end NJPA has, through Minnesota Statute 123A.21, established a series of contracts with various Contractors for products and services that NJPA Members desire to procure.
- 1.2 Joint Exercise of Powers:** Minnesota Statute 471.59 provides for the joint exercise of powers which are common to any two units of government by action of their governing bodies. Many other states have enacted the same, or similar, legislation. NJPA Members relying on this legislation must execute a "Joint Powers" or membership agreement with NJPA. NJPA has developed such an agreement in compliance with Minnesota Law and will review and consider appropriate alterations to this document to facilitate compliance with the laws of another state.
- 1.3 NJPA Members:**
- 1.3.1 Potential NJPA Members:** A Potential NJPA Member is defined as any public or private educational agencies, districts or school boards, and any governmental unit including a city, county, town, political subdivision of Minnesota or another state, another state, the University of Minnesota, and any agency of the State of Minnesota or the United States, any instrumentality of a governmental unit, and any non-profit. Membership in NJPA is required to participate in any NJPA Contract. Any Member of NJPA who is in compliance with the terms and conditions of membership, shall have the option and freedom to access any of the procurement contracts of NJPA.
- 1.3.2 NJPA Member:** An NJPA Member is defined as any "Potential NJPA Member" who has completed and submitted a membership form or acknowledgement.
- 1.4 Purchase Order:** Purchase Orders for construction and services may be executed between NJPA or NJPA Members and the Contractor pursuant to this Invitation for Bid and the resulting Agreement.
- 1.4.1 Governing Law:** Purchase Orders, as identified above, shall be construed in accordance with, and governed by, the laws of a competent jurisdiction with respect to the NJPA Member. Each and every provision of law and clause required by law to be included in the Purchase Order shall be read and enforced as though it were included. If through mistake or otherwise any such provision is not included, or is not currently included, then upon application of either part the Contract shall be physically amended to make such inclusion or correction. The venue for any litigation arising out of disputes related to Purchase Order(s) shall be a court of competent jurisdiction to the Purchaser.
- 1.4.2 Additional Terms and Conditions:** Additional terms and conditions to a Purchase Order may be proposed by NJPA, NJPA Members, or Contractors. Acceptance of these additional terms and conditions is OPTIONAL to all parties to the Purchase Order. The purpose of these additional terms and conditions is to, among other things, formerly introduce job or industry specific requirements of law such as prevailing wage legislation. Additional

terms and conditions can include specific policy requirements and standard business practices of the issuing NJPA Member.

- 1.5 **Adjustment Factors:** Adjustment Factors are the Contractor's competitively bid price adjustments to the Unit Prices as published in the Construction Task Catalog, Book 3. Adjustment Factors are expressed as an increase to or decrease from the published prices.
- 1.6 **Construction Task Catalog:** A comprehensive listing of specific construction related Tasks, together with a specific unit of measurement and a Unit Price. (Also referred to as the CTC®).

2. **ABOUT THE NATIONAL JOINT POWERS ALLIANCE® (NJPA)**

NJPA is a Joint Powers organization operating under Minnesota Statute 123A.21 and procures contracts under the authority and guidance of the Minnesota Municipal Contracting Law Minnesota Statute 471.345 Subd.15 defining cooperative purchasing. NJPA also serves its national members under MN Statute 471.59 Subd.1 which defines the ability of two governmental agencies to enter into an agreement to share a Contract through the action of their governing boards. This action is based on their local legal ability to recognize and participate in NJPA contracts. The legal ability to forgo the bid process rests on the reference and authority of each individual agency and local policy as well as "Joint Exercise of Powers Authority" and municipal contracting laws within that state. Participation is also authorized by membership and recognizing NJPA's authority to procure on behalf of NJPA Members competitively bid contracts facilitated by NJPA under statutory authority, enabling legislation, and directive. NJPA operates as a national contracting agency offering Contract services and benefits to all qualifying agencies to include all Cities, Counties, Public and private education agencies, and non-profits. A publicly elected Board of Directors calls for bids and awards and holds all contracts and governs NJPA under the guidance of state law. All bids are competitively solicited and awarded by the NJPA publicly elected Board of Directors.

3. **DEFINED GOALS OF THE IFB**

- 3.1 The goal of this IFB is to establish a group of indefinite quantity construction contracts (IQCC) that NJPA and NJPA Members may access to complete small to medium sized repair, maintenance, and new construction Projects at competitively bid prices. The Contractors will perform an ongoing series of individual Projects for NJPA Members at different locations, primarily within the designated Geographic Area.
- 3.2 One of the major benefits to a Bidder is that one response may be prepared to receive a single award that is potentially available to and accessible by many potential buyers from government agencies, education, and non-profit agencies throughout the Geographic Area. NJPA Board of Directors will make awards to the selected Bidder(s). The procurement activities of the NJPA Bid Review Committee is limited to document preparation, answering Bidder questions, advertising the solicitation, distribution of this IFB upon request, conducting an evaluation, and making recommendation for possible approval to NJPA Board of Directors. Contracts awarded through NJPA are intended to meet the procurement laws of all states and NJPA will exhaust all avenues to comply with as many state laws as possible. It is the responsibility of each participating NJPA Member to ensure to their satisfaction that these laws are satisfied. An individual NJPA Member using these contracts is deemed by its own accord to be in compliance with bidding regulations. NJPA encourages the awarded Contractor to assist NJPA and the NJPA Member in this research to the benefit of all involved. After the award and contract phase, NJPA Members can issue Purchase Orders for any amount without the necessity to prepare their own IFB, RFP, or gathering of necessary quotations. This saves the NJPA Members countless hours of time and allows for more economical and efficient

purchasing. State laws permit or encourage cooperative purchasing contracts with the belief that better prices and value will result.

4. IQCC OVERVIEW

- 4.1 IQCC is a competitively bid indefinite quantity construction contract awarded to Contractors to accomplish the repair, alteration, modernization, rehabilitation, and minor new construction of infrastructure, buildings, structures, or other real property. The Contract value is based on the anticipated estimated annual use and the Contract term is generally multiple years. The IFB Documents include a Construction Task Catalog (CTC) containing repair and construction Tasks with preset unit prices. All unit prices are based on local labor, material, and equipment prices for the direct cost of construction. Once the Agreement is awarded, NJPA Members will order Work from the CTC by issuing a Purchase Order against the Agreement.
- 4.2 Bidders will offer price adjustments (Adjustment Factors) to be applied to the CTC unit prices. The Adjustment Factors represent either an increase (such as 1.1000) or a decrease from (such as 0.9800) to the preset unit prices. The amount to be paid for the work ordered will be determined by: multiplying the preset Unit Prices by the appropriate quantities and by the appropriate Adjustment Factor. The CTC and the Contractor's Adjustment Factors will be incorporated into the awarded Agreement.
- 4.3 Under IQCC, the Contractor furnishes management, labor, materials, equipment, and incidental design support needed to perform the Work.
- 4.4 As Projects are identified, the Contractor will jointly scope the Work with the NJPA Member. The NJPA Member will prepare a Detailed Scope of Work and issue a Request for Proposal to the Contractor. The Contractor will then prepare a Work Order Proposal for the Project including a Price Proposal, Schedule, and other requested documentation such as cut sheets for materials. If the Work Order Proposal is found to be reasonable, the NJPA Member will issue a Purchase Order. The Purchase Order will reference the Detailed Scope of Work and set forth the Work Order Completion Time, and the Work Order Price. The Contractor shall perform the Detailed Scope of Work within the Work Order Completion Time for the Work Order Price. A separate Purchase Order will be issued for each project. Extra Work, credits, and deletions will be contained in Supplemental Purchase Orders calculated in the same manner.
- 4.5 The Contractor shall prepare and submit Price Proposals using an online software application provided to the Contractor free of charge.

5. GEOGRAPHIC AREAS

NJPA solicits bids for separate contracts for each of the various Geographic Areas as shown on Exhibit C. This Agreement is for the Geographic Areas as specified in the Invitation for Bid.

6. THE IFB DOCUMENTS

The IFB Documents consist of four Books:

- Book 1: Project Information, Instructions to Bidders and Execution Documents
- Book 2: Standard Terms and Conditions and Contract General Conditions
- Book 3: Construction Task Catalog
- Book 4: Technical Specifications

7. QUALIFICATION OF BIDDERS

- 7.1 Bids shall be considered only from firms normally engaged in performing the type of work specified within the IFB Documents. Bidder must have adequate organization, facilities, equipment, and personnel to ensure prompt and efficient service to an NJPA Member.

- 7.2 In determining a Bidder's responsibility and ability to perform the Agreement, NJPA has the right to investigate and request information concerning the financial condition, experience record, personnel, equipment, facilities, principal business location and organization of the Bidder, the Bidder's record with environmental regulations, and the claims/litigation history of the Bidder.
- 7.3 Bidder must possess documentation evidencing compliance with applicable licensing requirements.

8. AWARD

- 8.1 An Award of Contract will be made by the NJPA Board of Directors based on the recommendation of the NJPA Bid Review Committee on behalf of its current and future NJPA Members.
- 8.2 It is the intent of the NJPA to award one Agreement to the lowest, responsive, responsible Bidder based on the Combined Adjustment Factor as shown on Bid Form 1 and other factors. The NJPA shall have the right to waive any informality or irregularity in any Bidder's Response received and to accept the Bidder's Response(s), which in its judgment, is (are) in the best interests of NJPA and NJPA Members. NJPA reserves the right to reject all Bid Responses and advertise again if, in NJPA's opinion, the received bids do not meet or exceed the minimum needs of the NJPA current and qualifying members. NJPA reserves the right to award additional Agreements from this solicitation for a period of 180 Days.
- 8.3 Additionally, the Contractor is required to submit a Management Plan (see Article 9, Section Two, Instructions to Bidders). The Contractor's Management Plan will provide the NJPA information to gauge the responsibility of the Bidder.
- 8.4 A Bidder will not be awarded more than one Contract within any geographical area. However, a Contractor may hold IQCC contracts in multiple Geographic Areas.

9. ASSIGNMENT OF WORK

If multiple awards are made, the assignment of the Work is at the discretion of the NJPA. However the NJPA intends to distribute Work equally among the awarded Agreements, taking into account the Contractor's Adjustment Factor and the performance of the Contractor.

10. ORDER OF PRECEDENCE OF THE COMPONENTS OF THE CONTRACT DOCUMENTS

The order of precedence of the Contract Documents shall be as follows:

- Book 2 – Standard Terms and Conditions
- Book 2 – Contract General Conditions
- Addenda, if any
- Work Order which may include Plans, Drawings and supplemental Technical Specifications
- Standard Specifications of the NJPA Member, the City, State, or Federal Government, if any
- Book 3 – Construction Task Catalog
- Book 4 – Technical Specifications
- Book 1 - Project Information, Instructions, and Execution Documents

SECTION TWO - INSTRUCTIONS TO BIDDERS

1. GENERAL INFORMATION

- 1.1 The following instructions are given for the purpose of guiding Bidders in properly preparing their bids. Such instructions are part of the IFB Documents, and strict compliance is required with all the provisions contained in the instructions.
- 1.2 Examination of IFB Documents
 - 1.2.1 It is the responsibility of each Bidder before submitting a Bid, to:
 - 1.2.1.1 Examine the IFB Documents thoroughly;
 - 1.2.1.2 Take into account federal, State, and local laws, regulations, ordinances, and applicable procurement codes that may affect costs, progress, performance, and furnishing of the Work or award;
 - 1.2.1.3 Study and carefully correlate Bidder's observations with the IFB Documents; and
 - 1.2.1.4 Carefully review the IFB Documents and notify NJPA of all conflicts, errors, or discrepancies in the IFB Documents of which Bidder knows or reasonably should have known.
- 1.3 The submission of a Bid shall constitute an incontrovertible representation by Bidder that Bidder has complied with the above requirements and that without exception, the Bid is premised upon performing and furnishing the Work required by the IFB Documents and that the IFB Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

2. SOLICITATION OF IFB

Sealed and properly identified bids entitled "INDEFINITE QUANTITY CONSTRUCTION CONTRACT" will be received by Gregg Meierhofer, Coordinator of Bids and Contracts, at NJPA Offices, 200 First Street NE, Staples, MN 56479 until the deadline for receipt of, and opening of, bids as specified in the Invitation For Bids. **Bids will be for the provision of Indefinite Quantity Construction Contract services for both NJPA and NJPA Members.** The NJPA Director of Business Development, or Representative from the NJPA Bid Review Committee, will then read the Bidder's names aloud. A summary of the responses to this IFB will be made available for public inspection in the NJPA office in Staples, MN. The Bid Award and resulting Agreement may be awarded within the timeframe identified in this IFB. A letter or e-mail request is required to receive a complete IFB Documents. Send or communicate all requests to the attention of Gregg Meierhofer 200 First Street NE Staples, MN 56479 or EZIQC@NJPACOOOP.org to receive a complete copy of this IFB Documents. All request must include mailing address, email address, contact name, and phone number. IFB CD's will be EXPRESSED mailed to the address provided Oral, facsimile, telephone, or telegraphic Bid Submissions or requests for IFB Documents are invalid and will not receive consideration.

3. ADVERTISING OF SOLICITATION

- 3.1 **AS A POLICY, NJPA SHALL ADVERTISE THIS SOLICITATION 1) FOR TWO CONSECUTIVE WEEKS IN THE MINNEAPOLIS STAR TRIBUNE, 2) IT SHALL BE FED INTO A NATIONAL WIRE SERVICE BY THE MINNEAPOLIS STAR TRIBUNE, AND 3) IT SHALL BE POSTED ON NJPA'S WEBSITE, POSTED TO THE WEBSITE OF NOTICETOBIDDERS.COM, AND POSTED TO OTHER THIRD PARTY WEBSITES DEEMED APPROPRIATE BY NJPA. NJPA WILL NOT MAINTAIN OR COMMUNICATE TO A BIDDER'S LIST. ALL INTERESTED BIDDERS MUST**

RESPOND TO THE SOLICITATION AS A RESULT OF AN INTERNET WEB NOTICE OR HARD COPY RESEARCH OF SAID PUBLICATION. BECAUSE OF THE SCOPE OF THE POTENTIAL MEMBERS AND NATIONAL VENDORS, NJPA HAS DETERMINED THAT THIS IS THE BEST WAY TO FAIRLY SOLICIT OUR IFB REQUESTS.

3.2 IN ADDITION, NJPA SHALL ADVERTISE IN ONE OR MORE PUBLICATIONS DISTRIBUTED IN THE STATE, INCLUDING, BUT NOT LIMITED TO, NEWSPAPERS AND OTHER PUBLICATIONS CONSISTENT WITH STATE LAW REGARDING NOTICE OF THIS INVITATION FOR BIDS.

4. REQUEST FOR INFORMATION (RFI)

- 4.1 Submit all RFIs about this IFB, in writing, to Gregg Meierhofer, NJPA, 200 First Street NE, Staples, MN 56479, or email at EZIQCC@NJPACOOOP.org or by fax at (218) 894-3045 prior to November 11, 2008 at 4:00 PM. NJPA urges potential bidders to communicate all concerns during the response period to avoid misunderstandings.
- 4.2 If an RFI is deemed by NJPA to have a material impact on the IFB, the response to the RFI will become an Addendum to these IFB Documents.
- 4.3 If the RFI and response is deemed by NJPA to be a clarification of existing terms and conditions and does not have a material impact on the IFB, no further documentation of that RFI is required.

5. MANDATORY PRE-BID SEMINAR

A mandatory pre-bid seminars will be held at the place and time stated in the Invitation for Bid for the purpose of discussing the IQCC procurement system, the IFB Documents and bid forms. Failure to attend a pre-bid seminar will invalidate the Bidders bid.

6. ADDENDA TO THE IFB DOCUMENTS

Addenda are written instruments issued by the NJPA that modify or interpret these IFB Documents. All Addenda issued by NJPA shall become a part of the IFB Documents. Addenda will be delivered to all potential bidders using the same method of delivery of the original IFB material or by email if appropriate. NJPA accepts no liability in connection with the delivery of said materials. Copies of Addenda will also be made available on the NJPA website at www.NJPACOOOP.org by clicking on "Current Bids" and from the NJPA offices. No Addenda will be issued later than five (5) Days prior to the deadline for receipt of bids, except an Addendum withdrawing the request for bids or one that includes postponement of the date of receipt of bids. Each potential bidder shall ascertain prior to submitting a bid that it has received all Addenda issued, and the bidder shall acknowledge its receipt in its bid response.

7. BID DEPOSIT

- 7.1 Bid deposit shall be a bond provided by a surety company or the equivalent in cashiers check, money order, or certified check. All certified checks must be drawn on a bank doing business in the United States and shall be made payable to the order of the NJPA. CASH IS NOT AN ACCEPTABLE FORM OF BID DEPOSIT.
- 7.2 Bid deposits shall be in the amount shown in the IFB. After bids are opened, deposits shall be irrevocable for the period of ninety (90) Days. If a bidder is permitted to withdraw its bid before award, no action shall be taken against the bidder or the bid deposit.
- 7.3 The bid bonds, certified checks, or cashier's checks of unsuccessful bidders will be returned as soon as practicable after the opening of the bids; however, the deposits of the three (3) lowest Bidders shall be retained until NJPA awards the Agreement to one or more of them, or for any reason rejects all bids.

8. BID SUBMISSION PROCESS

8.1 Preparation of the Bid Response

- 8.1.1 One (1) original copy submitted in a tabbed three ringed binder of the requested bid documents shall be prepared with original signatures and notarizations wherever required. Additionally, submit with the original paper copies two (2) electronic copies (CD Rom's) of the bid documents with scanned copies of signature pages with original signatures. The CD's must be labeled with; IFB No., Geographic Area, Date, Company Name and Copy 1 or 2.
- 8.1.2 All bids shall be on the forms provided. Telegraphic, electronic mail, or fax machine bids cannot be considered.
- 8.1.3 The bid documents must be submitted with original ink signatures by the person authorized to sign the bid. The person signing the bid must initial erasures, interlineations, or other modifications in the bid document. Failure to properly sign the bid documents or to make other notations as indicated may result in rejection of bid and cause the bid to be deemed non-responsive.
- 8.1.4 Mistakes may be corrected prior to bid opening, but shall be initialed by the person signing the bid documents. Corrections and/or modifications received after the opening time will not be accepted, except as authorized by applicable rule, regulation, or statute and NJPA.
- 8.1.5 It is the responsibility of all Bidders to examine the entire IFB package, to seek clarification of any item or requirement that may not be clear, and to check all responses for accuracy before submitting a bid. Negligence in preparing a bid confers no right of withdrawal after the deadline for submission of bids.
- 8.1.6 If a bidder intends to bid for more than one Geographic Area, each bid must be independent of the others. Each bid must be complete and include the appropriate bid forms for that Geographic Area, separate bid security, Management Plan, etc.

9. CONTRACTOR'S MANAGEMENT PLAN

- 9.1 The Bidder is required to submit one copy of its plan for management of the Contract. The title of the submittal shall be "**MANAGEMENT PLAN FOR EXECUTION OF IQCC**". The Contractor's Management Plan must be submitted with the Bidder's bid documents.
- 9.2 In addition to the bid documents and other required submittals, the Contractor's Management Plan will be used by the NJPA to determine the responsibility of the Bidder to perform the Agreement. Therefore the Bidder should take great care in the preparation of the Management Plan.
- 9.3 The Bidder may be determined non-responsive for failure to submit the Management Plan and/or declared non-responsible for failure to adequately address the issues below to the satisfaction of the NJPA.
- 9.4 The Management Plan shall include as a minimum the following information and organized specifically as shown below:

Construction and Operations Management Plan:

- 1. State the number of years your company has been in the construction industry, the type of work your company self-performs, and the type of work your company typically subcontracts.

2. Provide a narrative description of how you propose to execute the Work assigned under this contract including but not limited to:
 - a. Your general understanding of the IQCC procurement system including your assessment of any of the articles of the General Conditions you deem critical to the operations and management of the contract.
 - b. The Contractor is expected to participate in the development and documentation of the Detail Scope of Work for each Work Order. Explain in detail your proposed participation and the specific qualities of your personnel that will add benefit to this process.
 - c. Provide a safety plan and your approach to accident prevention. Provide the name qualifications and experience of your safety officer and what his/her duties and responsibilities will be overall and at the construction Project Site.
 - d. Provide your approach to the expeditious close out of Projects, correction of unacceptable Work, and punch list procedures.
 - e. The Contractor is expected to assist NJPA in the marketing of the IQCC services under the EZIQC brand. **Please provide a specific marketing plan including your strategy for marketing, the personnel and their qualifications for marketing, and the frequency and duration of marketing efforts. Additionally, the Contractor is expected to market to potential NJPA members. Please describe your plan to accomplish this.**
 - f. All Work has a minimum warranty period of one year. Please describe your process for tracking and performing warranty work.
 - g. Supply three performance reviews from customers similar to NJPA Members. Please include the customer's name, contact, and phone number.
 - h. If within the past five (5) years, the Bidder has been lawfully precluded from participating in any public procurement activity with a federal, state, or local government, then the Bidder must provide a letter with its response setting forth the name and address of the public procurement unit, the effective date of the suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. Please describe on a separate document.

Management Team:

1. Provide an organizational chart.
2. Describe the responsibilities and duties of each position by indicating who will manage the overall contract, attend Joint Scope Meetings, prepare Work Order Proposal Packages, negotiate with Subcontractors, supervise construction, and perform administration tasks.
3. Provide the resumes of the personnel you intend to assign to this Agreement.

10. BID PRICING

- 10.1 Each Bidder must submit three (3) Adjustment Factors. The first one is to be applied to Work to be accomplished during Normal Working Hours and the second one is to be applied to Work to be accomplished during Other Than Normal Working Hours. These Adjustment Factors apply to every Task in the CTC. The CTC is priced at a net

value of 1.0000. The bid shall be an adjustment "decrease from" (e.g., 0.9800) or "increase to" (e.g., 1.1000) to the Unit Prices listed in the CTC. Bidders who submit separate Adjustment Factors for separate line items will be considered non-responsive and their bids will be rejected. The Other Than Normal Working Hours Adjustment Factor must be higher than the Normal Working Hours Adjustment Factor.

- 10.2 The Bidder's Adjustment Factors shall include all of the Bidder's direct and indirect costs including, but not limited to, its costs for overhead, profit, bond premiums, insurance, mobilization, proposal development, and all contingencies in connection therewith. See pages 00-1 – 00-8 of Book 3 – the CTC for a complete explanation of what is included in the Unit Prices and what is not.
- 10.3 The third Adjustment Factor is for Tasks not identified in the Construction Task Catalog. IQCC includes a provision for establishing of prices for Work requirements which are within the general scope of IQCC but were not included in the CTC at the time of Contract award. These Tasks are referred to as "Non Pre-priced Tasks (NPP)". NPP Tasks may require new specifications and drawings and may subsequently be incorporated into the CTC. The bidders will offer an Adjustment Factor to be applied to the actual material, equipment, and labor cost for NPP work Tasks. The NPP Adjustment Factor shall not be less than 1.1000 and not higher than 1.2500.
- 10.4 Adjustment Factors must be specified to the fourth decimal place. For example:

1	.	1	0	0	0
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Or

0	.	9	8	0	0
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- 10.5 For bid evaluation purposes, only, the following weighting factors shall be used to determine the Combined Adjustment Factor:

NORMAL WORKING HOURS	OTHER THAN NORMAL WORKING HOURS	NON PRE-PRICED
.80	.10	.10

11. BID DOCUMENT CHECKLIST

The following documents must be submitted with the bid:

- ☐ Bid Form 1: The Adjustment Factors
- ☐ Bid Form 2: Calculation of the Combined Adjustment Factor
- ☐ Bid Form 3: Bid Deposit
- ☐ Bid Form 4: Bidder Assurance of Compliance
- ☐ Bid Form 5: Management Plan
- ☐ Bid Form 6: Certificate of Good Standing¹

☐ Bid Form 7: Certificate of Secretary²

☐ Bid Form 8: Bonding Company Statement of Bond Capacity³

☐ Bid Form 9: Financial Statement⁴

1. Provide a Certificate of Good Standing for your business from the state in which you are organized.
2. Provide a certificate of Secretary for your business identifying an authorized signer for the Agreement.
3. Provide a letter from your bonding company setting forth your company's available bonding capacity and confirming that, if required, your company could provide labor and material payment bonds and performance bonds for certain projects up to the bonding capacity.
4. Provide the most current financial statement for your company as prepared by a CPA.

☐ Bid Form 10: Existing Full-Service Office Location Affidavit

☐ Bid Form 11: Form of Agreement (signed)

12. BID TRANSMITTAL

12.1 It is the responsibility of the Bidder to be certain that the bid is in the physical possession of NJPA on or prior to the deadline for submission of bids.

12.2 Bids must be submitted in a sealed envelope or box properly addressed to NJPA and with the following information clearly marked on the outside of the envelope or box:

Solicitation number

Name of Solicitation

Geographic Area

Deadline for bid submission

Bidder's name and address.

12.3 NJPA is not responsible for late receipt of bids. Bids received by the correct deadline for bid submission will be opened and the name of each Bidder and other appropriate information will be publicly read.

13. MODIFICATION OR WITHDRAWAL OF A SUBMITTED BID

A submitted bid may not be modified, withdrawn, or cancelled by the Bidder for a period of ninety (90) Days following the time and date designated for the receipt of bids. Prior to the deadline for submission of bids, any bid submitted may be modified or withdrawn by notice to the NJPA Coordinator of Bids and Contracts. Such notice shall be submitted in writing and include the signature of the Bidder, shall be delivered to NJPA prior to the deadline for submission of bids, and shall be so worded as not to reveal the content of the original bid. However, the original bid shall not be physically returned to the Bidder until after the official bid opening. Withdrawn bids may be resubmitted up to the time designated for the receipt of the bids if they are then fully in conformance with the Instructions to Bidders.

14. BIDDER RESPONSIVENESS

14.1 In accordance with accepted standards of competitive sealed bid awards as set forth in the State's Procurement Code, competitive sealed bids/awards will be made to responsible Bidders whose bids are determined in writing to be the most advantageous to NJPA and its current or future NJPA Members. To qualify for evaluation, a bid must have been submitted on time and materially satisfy all mandatory requirements identified in this document. A bid must reasonably and substantially conform to all the terms and conditions in the solicitation to be considered responsive. Deviations or exceptions stipulated in Bidder's response, while possibly necessary in the view of the Bidder, may result in disqualification.

Language to the effect that the Bidder does not consider this solicitation to be part of a contractual obligation will result in that bid being disqualified by NJPA.

- 14.2 Bidder's attention is directed to the provisions of Chapter 9 of Division 3 (§7000 et seq.) of the California Business and Professions Code ("The Contractors' State License Law"), and §3300 of the California Public Contract Code. The Contractor must possess the required classification of Contractor's License at the time the Bid is submitted (per Business and Professions Code §7028.15).

14.2.1 If a Bidder does not possess the required Contractor's License at the time a Bid is submitted, in accordance with Business and Professions Code §7028.15, the Bid will be considered non responsive.

14.2.2 Joint venture Bidders must possess a joint venture license. Each party to a joint venture must be properly licensed for the Work of this Project.

14.2 Any Contractor wishing to submit a bid in response to this IFB must also comply with the following minimum requirements to be considered responsive:

1. Maintain an existing full-service office (staff based out of that office cable of providing all the professional services required to be delivered under this Contract) within 100 miles of the Geographic Area as it relates to each specific contract shown in Exhibit C.
2. Submit Bid Form 10 as evidence of an existing full-service office location within 100 miles of the Geographic Area as it relates to each specific contract shown in Exhibit C.

15. CERTIFICATION

By signing this bid, the Bidder certifies:

- 15.1 The submission of the offer did not involve collusion or any other anti-competitive practices;
- 15.2 The Bidder/Contractor shall not discriminate against any employee or applicant for employment in violation of Federal and State Laws (see Federal Executive Order 11246);
- 15.3 The Bidder has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer (see Gratuities); and
- 15.4 The Bidder agrees to promote and offer to Members only those products and/or services as previously stated, allowed, and deemed a resultant of the Agreement(s) as NJPA Contract items or services. This clause shall include any future product or service additions as allowed through contract additions.

16. PROTESTS

- 16.1 Protests shall be filed with the NJPA's Coordinator of Bids and Contracts and Director of Business Development and shall be resolved in accordance with appropriate state statutes of Minnesota. A protest must be in writing and filed with NJPA. A protest of an award or proposed award must be filed within ten (10) Days after the public notice or announcement of the award. No protest shall lie for a claim that the selected Bidder is not a responsible Bidder. A protest must include:

16.1.1 The name, address, and telephone number of the protester;

16.1.2. The original signature of the protester or its representative;

- 16.1.3. Identification of the solicitation by contract number;
- 16.1.4. A detailed statement of the legal and factual grounds of protest including copies of any relevant documents; and, the form of relief sought.
- 16.1.5. A good faith fee of \$1,000 payable to NJPA will accompany the formal protest. If the protest is found to be groundless by the NJPA the fee will be forfeited to NJPA. Any protest review and action will be considered final with no further formalities being considered.

17. PUBLIC RECORD

All bids submitted to this invitation shall become the property of the NJPA and will become a matter of public record, available for review subsequent to the award notification. Bids may be viewed by appointment at the NJPA offices Monday through Friday from 8:30 a.m. to 3:30 p.m. CST

18. PREVAILING WAGE RATES

- 18.1 This clause is applicable to States in which prevailing wage rates are established by law. The Contractor shall pay prevailing wages to all workers in accordance with the applicable laws. The wage rates used for the CTC were the prevailing wage rates, if any, in effect at the time these IFB Documents were issued. In the performance of the Work, however, Contractor shall be fully responsible for paying the generally prevailing hourly rate of wages in effect, as determined by the State Department of Labor, at the time the Work is performed. If the State Department of Labor revises the prevailing rate of hourly wages to be paid for the Work prior to completion of the Project, the revised rate shall apply to this Agreement from the effective date of such revision, however such revision shall not entitle Contractor to any increased compensation under the terms of the Agreement.
- 18.2 If other wage rates are required by law, the Contractor shall pay such wages to all workers in accordance with the applicable laws. If the Work Order is performed in whole or in part using federal funding, then the Davis Bacon Wages for that area will apply.
- 18.3 Contractors shall meet any goals or requirements established by the NJPA Member ordering the Work, and/or satisfy the intent of said goals or requirements, with regard to Small, Local, Minority, Women, Veteran or Disadvantaged Business Enterprises. Additional participation goals may be incorporated into the Request for Proposal or Detailed Scope of Work.

19. MARKETING REQUIREMENT

Bidder must express a willingness and ability to take ownership and promote the services to be provided. Bidder must agree to work in cooperation with NJPA to develop a marketing strategy and provide avenues to equally market and drive sales through the Agreement and program to all NJPA Members and Potential NJPA Members. Bidder agrees to actively market in cooperation with NJPA all available services to current NJPA Members, as well as Potential NJPA Members. **As such the Bidder will demonstrate in the Management Plan specific marketing strategies, personnel and the qualifications of those personnel to market IQCC and the frequency and duration of marketing efforts.** NJPA reserves the right to deem a Bidder non-responsive or to waive an award based on a Bidder's unwillingness to participate in such a marketing effort or submits a marketing strategy in the Management Plan that is deemed unsatisfactory, in the sole discretion of NJPA.

20. MEMBER SIGN-UP PROCEDURE

Bidder agrees to cooperate and participate in the NJPA Membership process as part of connecting NJPA Members to NJPA contracts. The process to sign up new NJPA Members to purchase under this Agreement will be defined during the award phase.

21. FEES

- 21.1 Bidder agrees to pay to NJPA a 6% administrative fee within 7 days of receipt of any payment by the NJPA or NJPA member. Payments overdue by 30 days will be assessed a 1% per month late payment fee.
- 21.2 Additional fees may be applicable to this contract, including, but not limited to, project management fees and local administrative fees. The Contractor will be notified of the additional fees and specific details at the time of the Request for Proposal for each Work Order. The Contractor will be reimbursed the actual cost of the additional fees as part of its Price Proposal. The Contractor will be responsible for paying the appropriate organization their fee as identified in the Work Order.

22. PHYSICAL PRESENCE

The Bidder agrees to establish, maintain and conduct operations from offices within one hundred (100) miles of the Geographic Area which the Contractor has been awarded.

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SECTION THREE - BID FORMS

BID FORM 1: THE ADJUSTMENT FACTORS

CONTRACT NO: _____

CONTRACTOR NAME: _____

The Contractor shall perform the Tasks required by each individual Work Order issued pursuant to this Agreement using the following Adjustment Factors:

1. Normal Working Hours: 7:00am to 4:00pm Monday to Friday except holidays. Contractor shall perform Tasks during Normal Working Hours for the Unit Price set forth in the CTC multiplied by the Adjustment Factor of:

	.				
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(Specify to four decimal places)

2. Other Than Normal Working Hours: 4:00pm to 7:00am Monday to Friday, and any time Saturday, Sunday, and Holidays. Contractor shall perform Tasks during Other Than Normal Working Hours for the Unit Price set forth in the CTC multiplied by the Adjustment Factor of:

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

(Specify to four decimal places)

3. Non Pre-priced Adjustment Factor: To be applied to Work deemed not to be included in the CTC but within the general scope of the work:

1	.				
---	---	--	--	--	--

(Specify to four decimal places)

4. Combined Adjustment Factor:

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

(Specify to four decimal places)

(See Bid Form 2 for calculation procedure)

NOTICE - The attention of Bidders is particularly called to the fact that, unless the Bid is made in strict conformity with the directions given, it will be considered non-responsive and will be rejected. The Bidder must fill in all boxes and blanks.

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Before submitting this bid, the Bidder is directed to the Construction Task Catalog to review the explanation of the costs included in the Unit Prices and the Adjustment Factors. Except for a Non Pre-priced Task, the only compensation to be paid to a Contractor will be the total of the Unit Prices multiplied by the quantities multiplied by the Adjustment Factor. No additional payments of any kind whatsoever will be made. All costs not included in the Unit Prices must be part of the Adjustment Factors.

The Bidder's Other Than Normal Working Hours Adjustment Factor must be higher than the Normal Working Hours Adjustment Factor.

The Non Pre-priced Adjustment Factor must be higher than 1.1000 but not higher than 1.2500.

NJPA RESERVES THE RIGHT TO REVISE ALL ARITHMETIC ERRORS IN CALCULATIONS FOR CORRECTNESS.

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BID FORM 2: CALCULATION OF THE COMBINED ADJUSTMENT FACTOR

CONTRACT NO: _____

CONTRACTOR NAME: _____

The following formula has been developed for the sole purpose of evaluating bids and awarding the Agreement.

Each Bidder must complete the following calculation.

Line 1.	Adjustment Factor for Normal Working Hours	_____
Line 2.	Multiply Line 1 by .80	_____
Line 3.	Adjustment Factor for Other Than Normal Working Hours	_____
Line 4.	Multiply Line 3 by .10	_____
Line 5:	Adjustment Factor for Non Pre-priced Tasks	_____
Line 6:	Multiply Line 5 by .10	_____
Line 7.	Summation of lines 2, 4 and 6	_____

(Combined Adjustment Factor)

Transfer the number on line 7 to the space provided for the Combined Adjustment Factor on Bid Form 1.

Instructions To Bidder: Specify lines 1 through 7 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).

Note To Bidder: The weights in lines 2, 4, and 6, above are for the purpose of calculating a Combined Adjustment Factor only. No assurances are made by NJPA that Work will be ordered under the Contract in a distribution consistent with the weighted percentages above. The Combined Adjustment Factor is only used for the purpose of determining the lowest Bidder. When submitting Price Proposals related to specific Work Orders, the Bidder shall utilize one or more of the Adjustment Factors applicable to the Work being performed provided in lines 1, 3, or 5, as applicable, on the Bid Form 2 above.

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BID FORM 3: BID DEPOSIT

(Insert bid deposit here

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BID FORM 4: BIDDER ASSURANCE OF COMPLIANCE

AFFIDAVIT

The undersigned, representing the persons, firms, and corporations joining in the submission of the foregoing bid (such persons, firms, and corporations hereinafter being referred to as the "Bidder"), being duly sworn on his/her oath, states to the best of his/her belief and knowledge:

1. I am authorized to act on behalf of the Bidder, and
2. To the best of my knowledge, no Bidder or Potential Bidder, nor any person duly representing the same, has directly or indirectly entered into any agreement or arrangement with any other Bidders, Potential Bidders, any official or employee of NJPA, or any person, firm, or corporation under contract with NJPA in an effort to influence either the offering or non-offering of certain prices, terms, and conditions relating to this IFB which tends to, or does, lessen or destroy free competition in the letting of the Agreement sought for by this IFB, and
3. Bidder, or any person on Bidder's behalf, has not agreed, connived, or colluded to produce a deceptive show of competition in the manner of the bidding or award of the referenced Agreement, and
4. Neither I, Bidder, nor, any officer, director, partner, member, or associate of Bidder, nor any of its employees directly involved in obtaining contracts with NJPA or any subdivision of NJPA, has been convicted of false pretenses, attempted false pretenses, or conspiracy to commit false pretenses, bribery, attempted bribery, or conspiracy to bribe under the laws of any state or federal government for acts or omissions after January 1, 1985, and
5. Bidder has examined and understands all the terms and conditions contained in the IFB and it has no exceptions to such terms and conditions, and
6. If awarded a contract, Bidder will provide the services to qualifying NJPA Members in accordance with the terms and conditions of this IFB, and
7. Bidder has carefully checked the accuracy of all the information and prices provided in this bid, and
8. Bidder understands that NJPA reserves the right to reject any or all bids and that this bid may not be withdrawn during a period of 90 days from the time of the opening date, and
9. Bidder certifies that in performing this Agreement it will comply with all applicable provisions of the federal, State, and local laws, regulations, rules, and orders.
10. Bidder confirms receipt and acknowledgement of the following addendums:

Addendum Number 1: _____
Addendum Number 2: _____
Addendum Number 3: _____

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NATIONAL JOINT POWERS ALLIANCE®
Book 1 – Project Information, Instructions to Bidders and Execution Documents

Company Name: _____

Contact Person for Questions: _____ Phone: _____
(Must be individual who is responsible for filling out this Bidder's Response form)

Address: _____

City/State/Zip: _____

Telephone Number: _____ Fax: Number: _____

E-mail Address: _____

Authorized Signature: _____

Print Name: _____

Title: _____

Date: _____

Notarized

Subscribed and sworn to before me this _____ day of _____, 20____

Notary Public in and for the County of _____

State of _____

My commission expires: _____

Signature: _____

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BID FORM 5: MANAGEMENT PLAN

(Insert management plan here)

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BID FORM 6: CERTIFICATE OF GOOD STANDING

(Insert certificate of good standing here)

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BID FORM 7: CERTIFICATE OF SECRETARY

(Insert certificate of secretary here)

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BID FORM 8: BONDING COMPANY STATEMENT

(Insert bonding company statement here)

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BID FORM 9: FINANCIAL STATEMENT

(Insert financial statement here)

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BID FORM 10: EXISTING FULL-SERVICE OFFICE LOCATION AFFIDAVIT

STATE OF CALIFORNIA

Before me, the undersigned authority, personally appeared
_____, who after being duly sworn, deposes and says:

As a prospective Bidder, Contractor acknowledges the provisions set forth in the IQCC IFB Documents, Instructions to Bidders Article 14.2, regarding the requirement for an existing full-service office location within 100 miles of the Geographic Area at the time of Bid.

Contractor warrants compliance with such provisions and has established and maintains, at or before the time of Bid, a physical full-service office within 100 miles of the Geographic Area located at the address provided below; and the existing office is fully functioning with an established storefront, office-based staffing capable of providing all the professional services required to be delivered under this Contract, adequate material and equipment, and any and all other necessary operational resources.

Office Physical Address: _____

Office Phone Number: _____ Office Fax Number: _____

Contractor is aware that failure to comply with the requirements set forth in the IQCC IFB Documents, Instructions to Bidders Article 14.2, may cause the Contractor to be considered non-responsive as a Bidder, and may therefore disqualify the Contractor from potential Contract award.

This Affidavit is given in connection with the Contractor's Bid for IQCC contract number _____
_____.

(Affiant)

The forgoing instrument was acknowledged before me this _____ day of _____,
20 ____ by _____ who is personally known
to me and/or has produced _____ as
identification.

Signature of Person Taking Acknowledgment

Name of Acknowledger Typed, Printed, or Stamped

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BID FORM 11: INDEFINITE QUANTITY CONSTRUCTION AGREEMENT

IMMEDIATELY FOLLOWS

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INDEFINITE QUANTITY CONSTRUCTION AGREEMENT

IFB NUMBER: _____

GEOGRAPHIC AREA _____

This Agreement dated _____, by and between the National Joint Powers Alliance,

hereinafter referred to as NJPA and _____
at the following address _____

hereinafter referred to as the CONTACTOR.

WITNESSETH: NJPA and CONTRACTOR for the consideration hereafter agree as follows:

ARTICLE 1. CONTRACT DOCUMENTS

- A. The Contract Documents consist of this Agreement; the IFB Documents (Book 1 - Project Information, Instructions to Bidders and Execution Documents; Book 2 - IQCC Standard Terms and Conditions and IQCC General Conditions; Book 3 - Construction Task Catalog (CTC), Book 4 - Technical Specifications) and Addenda thereto, the Bid Deposit, all payment and performance bonds (if any), material and workmanship bonds (if any); wage rate decisions and certified payroll records (if any), Notice of Award, and all Purchase Orders and accompanying documents (Requests for Proposals, Detailed Scopes of Work, Work Order Proposal Packages, etc.) issued hereunder.
- B. The terms and conditions of a Purchase Order issued by an NJPA Member in connection with any Work Order, including supplemental technical specifications referenced therein, shall govern.

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ARTICLE 2. SCOPE OF WORK

- A. The Contractor shall provide the services required to develop each Work Order in accordance with the procedures for developing Work Orders set forth in the IQCC Standard Terms and Conditions and the Contract Documents.
- B. Each Work Order developed in accordance with this Agreement will be issued in connection with a Purchase Order by an individual NJPA Member. The Purchase Order will reference the Work Order and require the Contractor to perform the Detailed Scope of Work within the Work Order Completion Time for the Work Order Price.
- C. It is anticipated that the Contractor will perform Work primarily in the Geographic Area set forth above. However, the parties may agree that the Contractor can perform Work in a different Geographic Area at its current Adjustment Factors.

ARTICLE 3. THE AGREEMENT PRICE

- A. This Agreement is an indefinite-quantity contract for construction work and services. The Estimated Annual Value of this Agreement is \$_____.
- B. The Contractor shall perform any or all Tasks in the Construction Task Catalog (CTC) for the unit price appearing therein multiplied by the following Adjustment Factors:
 - a. Normal Working Hours (7:00 am to 4:00 pm Monday to Friday, except holidays) Adjustment Factor:
_____.
(Specify to four (4) decimal places)
 - b. Other Than Normal Working Hours (4:00 pm to 7:00 am Monday to Friday, and all day Saturday, Sunday and Holidays) Adjustment Factor:
_____.
(Specify to four (4) decimal places)
 - c. Non Pre-priced Adjustment Factor:
_____.
(Specify to four (4) decimal places)

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ARTICLE 4. TERM OF THE AGREEMENT

- A. The term shall be four years. The Contractor may withdraw from the Agreement on each anniversary of the award, provided that the Contractor gives 60 Days written notice of its intent to withdraw. NJPA may, for any reason, terminate this Agreement at any time.
- B. All Purchase Orders issued during a term of this Agreement shall be valid and in effect notwithstanding that the Detailed Scope of Work may be performed, payments may be made, and the guarantee period may continue, after such term has expired. All terms and conditions of the Agreement apply to each Purchase Order.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

By:

National Joint Powers Alliance

Authorized Signature

Contractor

Authorized Signature

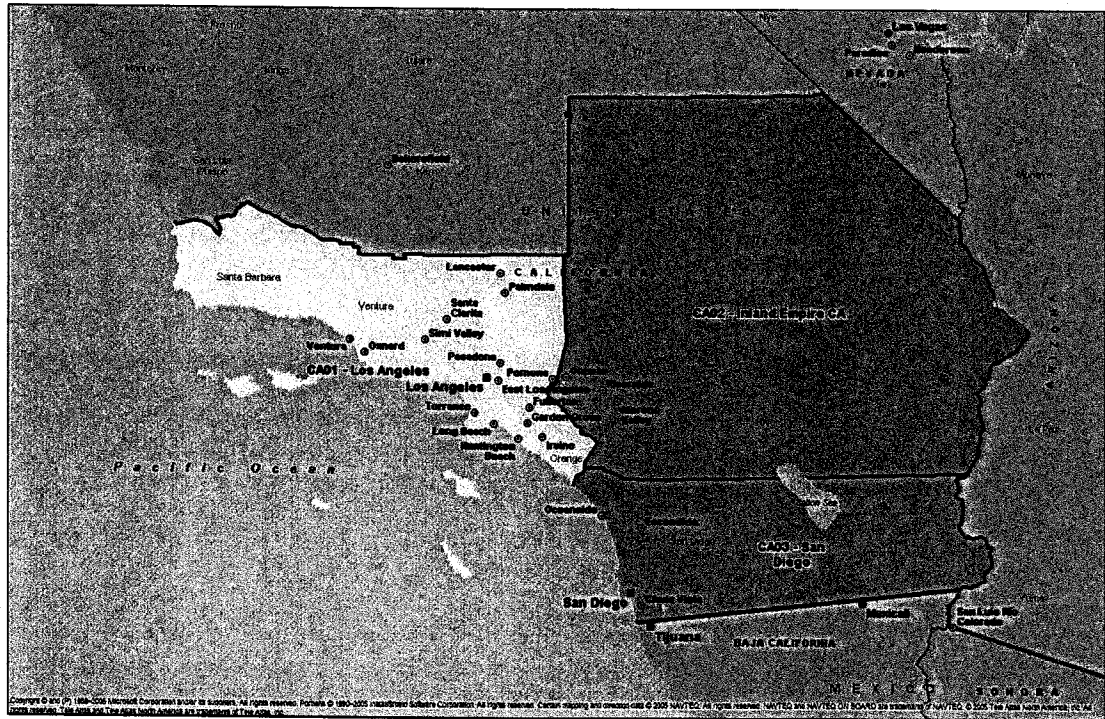
Print Name

Contract Number: _____ (assigned by NJPA)

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SECTION FOUR - EXHIBITS

EXHIBIT B: MAP



Territory	County
CA01 - Los Angeles	Santa Barbara
CA01 - Los Angeles	Ventura
CA01 - Los Angeles	Orange
CA01 - Los Angeles	Los Angeles
CA02 - Inland Empire CA	San Bernardino
CA02 - Inland Empire CA	Riverside
CA03 - San Diego	San Diego
CA03 - San Diego	Imperial

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**THE
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GROUP®**



CONSTRUCTION PROCUREMENT SIMPLIFIED™



National Joint Powers Alliance*

Book 2

IQCC STANDARD TERMS AND CONDITIONS AND CONTRACT GENERAL CONDITIONS

CONTRACT NO.

CA01-B1-111808, CA01-B2-111808, CA01-B3-111808, CA01-B4-111808,
CA02-B1-111808, CA02-B2-111808, CA02-B3-111808, CA02-B4-111808,
CA03-B1-111808, CA03-B2-111808, CA03-B3-111808

INDEFINITE QUANTITY CONSTRUCTION CONTRACT

200 First Street NE
Staples, MN 56479

Mr. Gregg Meierhofer
Coordinator of Bids and Contracts
gregg.meierhofer@njpacoop.org

October 2008

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BOOK 2

Table of Contents

SECTION ONE - IQCC STANDARD TERMS AND CONDITIONS	1
1. Definitions	1
2. SCOPE OF WORK AND PROCEDURE FOR ORDERING WORK	3
3. ARCHITECTURAL AND ENGINEERING SERVICES	4
4. TERM OF AGREEMENT	4
5. GEOGRAPHIC AREA	4
6. ESTIMATED ANNUAL VALUE	4
7. UPDATING THE ADJUSTMENT FACTORS	4
8. PROCEDURE FOR ORDERING WORK	5
9. PUNCH LIST COMPLETION	10
10. PAYMENT AND PERFORMANCE BONDS AND MATERIAL AND WORKMANSHIP BONDS	10
11. COMPUTER SOFTWARE	10
12. PREPAYMENT OPTION	10
SECTION TWO – CONTRACT GENERAL CONDITIONS	13
1. PROJECT MANAGER	13
2. NJPA MEMBER'S RIGHT TO STOP WORK	13
3. NJPA MEMBER'S RIGHT TO COMPLETE WORK	13
4. REVIEW OF FIELD CONDITIONS	13
5. SUPERVISION	13
6. WORKMANSHIP AND QUALITY	13
7. WARRANTY	14
8. PERMITS, FILING	14
9. PERSONNEL	14
10. SHOP DRAWINGS, PRODUCT DATA AND SAMPLES	15
11. CUTTING AND PATCHING	16
13. ACCESS TO THE WORK	16
14. ROYALTIES, PATENTS, AND COPYRIGHTS	16
15. INDEMNIFICATION	16
16. SUBCONTRACTORS	17
17. COORDINATION WITH OTHER CONTRACTORS	17
18. REQUEST FOR EXTENSION OF TIME	17
19. PARTIAL PAYMENTS	18
20. FINAL PAYMENTS	18
21. PARTIAL OCCUPANCY OR USE	18
22. IDENTIFICATION AND SECURITY REQUIREMENTS	19
23. PROTECTION OF PERSONS AND PROPERTY	19

NATIONAL JOINT POWERS ALLIANCE®
Book 2 – IQCC Standard Terms and Conditions and Contract General Conditions

24.	HAZARDOUS MATERIALS.....	20
25.	INSURANCE REQUIREMENTS	20
26.	LIQUIDATED DAMAGES	22
27.	TESTS AND INSPECTIONS	22
28.	GOVERNING LAW	22
29.	COMPLIANCE WITH LAWS	22
30.	SEVERANCE	23
31.	LICENSE	23
32.	ASSIGNMENT	23
33.	CLAIMS AND DISPUTES.....	23
34.	TERMINATION BY THE NJPA FOR CAUSE	23
35.	NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND AMERICANS WITH DISABILITIES ACT	23
36.	AUDITS.....	24
37.	GRATUITIES	24

BOOK 2:

SECTION ONE - IQCC STANDARD TERMS AND CONDITIONS

1. DEFINITIONS

- 1.1 Addendum or Addenda: the additional Bidding Document provisions issued in writing by NJPA prior to the receipt of Bids.
- 1.2 Agreement: the written Agreement between the Contractor and NJPA covering the Work to be performed; and other Contract Documents incorporated in or referenced in the Agreement and made part thereof as if provided therein.
- 1.3 Adjustment Factors: the Contractor's competitively bid price adjustment to the Unit Prices as published in the Construction Task Catalog, Book 3. Adjustment Factors are expressed as an increase to or decrease from the published prices.
- 1.4 IFB Documents: The Invitation to Bid; Book 1 - Project Information, Instructions to Bidders, and Execution Documents; Book 2 - IQCC Standard Terms and Conditions and Contract General Conditions; Book 3 - The Construction Task Catalog; and Book 4 - IQCC Technical Specifications.
- 1.5 Construction Task Catalog: A comprehensive listing of specific construction related Tasks, together with a specific unit of measurement and a Unit Price. (Also referred to as the CTC®).
- 1.6 Contract Documents: This Agreement; the IFB Documents (Book 1 - Project Information, Instructions to Bidders and Execution Documents; Book 2 - IQCC Standard Terms and Conditions and IQCC General Conditions; Book 3 - Construction Task Catalog (CTC), Book 4 - Technical Specifications) and Addenda thereto, the Bid Deposit, all payment and performance bonds (if any), material and workmanship bonds (if any); wage rate decisions and certified payroll records (if any), Notice of Award, and all Purchase Orders and accompanying documents (Requests for Proposals, Detailed Scopes of Work, Work Order Proposal Packages, etc.) issued hereunder.
- 1.7 Contractor: The individual, firm, partnership, corporation, joint venture, or other legal entity or combination thereof with whom NJPA has contracted and who is responsible for the acceptable performance of the Agreement and for the payment of all legal debts pertaining to the Work. All references in the Contract Documents to third parties under contract or control of Contractor shall be deemed to be a reference to Contractor.
- 1.8 Days: Calendar days, unless otherwise stated.
- 1.9 Detailed Scope of Work: A document prepared following a Joint Scope Meeting which describes in detail the Work the Contractor will perform for a particular Work Order.
- 1.10 Holidays: the specific days designated by NJPA or NJPA members as legal Holidays. NJPA designates the following days as Holidays: New Year's day, Martin Luther King Jr.'s Birthday, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day and the following day, and Christmas Day.
- 1.11 Joint Scope Meeting: a meeting, normally at the Site, to discuss the Work with the Contractor to assist in the development of the Detailed Scope of Work.
- 1.12 Non Pre-priced Task (NPP): a task not included in the Construction Task Catalog but within the general scope and intent of this the Agreement.

- 1.13 Normal Working Hours: the hours of 7:00 a.m. to 4:00 p.m. Monday to Friday, except Holidays.
- 1.14 Other Than Normal Working Hours: 4:00 p.m. to 7:00 a.m. Monday to Friday and any time Saturday, Sunday, and Holidays.
- 1.15 Price Proposal: The price proposal prepared by the Contractor using the Construction Task Catalog, Adjustment Factors and appropriate quantities.
- 1.16 Project: collectively, the Work to be accomplished by the Contractor in satisfaction of a requirement or group of related requirements pursuant to one or more Work Orders.
- 1.17 Purchase Order. The document establishing the engagement by NJPA or the NJPA Member to the Contractor to complete a specifically identified Work Order Proposal Package at a specific Work Order Price and in a specific Work Order Completion Time. A Purchase Order will reference the IQCC to which it relates and will identify the schedule on which the Work Order Price will be paid to the Contractor.
- 1.18 Request for Proposal: The NJPA Member's written request for the Contractor to prepare and submit a Work Order Proposal Package for a specific Work Order.
- 1.19 Site: The area upon or in which the Contractor performs the Work and such other areas adjacent thereto as may be designated by NJPA or the NJPA Member.
- 1.20 State: The state of Virginia.
- 1.21 Subcontractor: Any person, firm or corporation, other than employees of the Contractor, who or which contracts with the Contractor or his Subcontractors to furnish, or actually furnishes labor, or labor and materials, or labor and equipment, at the Site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor.
- 1.22 Supplemental Work Order or Supplemental Purchase Order: A Work Order or Purchase Order issued to add or delete Work from an existing, related Work Order.
- 1.23 Technical Specifications: The comprehensive listing of the NJPA Members standards for quality of workmanship and materials, and the standard for the required quality of the Work.
- 1.24 Unit Price: The price published in the Construction Task Catalog for a Task. The Unit Prices are fixed for the Contract Term. Each Unit Price is comprised of the Labor, Equipment, and Material costs to accomplish that specific Task.
- 1.25 Work: The labor, material, equipment and services necessary or convenient to the completion of Work Orders.
- 1.26 Work Order: The written obligation document establishing an engagement by NJPA or NJPA Member to the Contractor to complete a specifically identified Work Order Proposal Package at the Work Order Price and within the Work Order Completion Time. A Work Order will normally be in the form of a Purchase Order issued by an NJPA Member.
- 1.27 Work Order Completion Time: The period of time set forth in the Work Order within which the Contractor must complete the Detailed Scope of Work.
- 1.28 Work Order Price: The lump sum price to be paid to the Contractor for completing the Detailed Scope of Work within the Work Order Completion Time.
- 1.29 Work Order Proposal Package: The final agreed upon Price Proposal, drawings, sketches, list of Subcontractors, final schedule, and, when appropriate, permits, or other such documentation as the NJPA Member may require for a specific Work Order.

2. SCOPE OF WORK AND PROCEDURE FOR ORDERING WORK

2.1 Scope of Work

- 2.1.1 This is an indefinite quantity contract for the supplies or services specified, and effective for the period stated in the IFB Documents.
- 2.1.2 Job or performance shall be made only as authorized by Work Orders issued in accordance with these IQCC Standard Terms and Conditions.
- 2.1.3 The Scope of Work of this Agreement shall be determined by individual Work Orders issued hereunder. The Contractor shall provide all pricing, management, incidental drawings, shop drawings, samples, documents, Work, materials, supplies, parts (to include system components), transportation, plant, supervision, labor, and equipment needed to complete each Work Order. The Contractor shall also be responsible for Site safety as well as Site preparation and cleanup during and after construction. All costs associated with the above scope of work and the preparation of proposals shall be the responsibility of the Contractor.
- 2.1.4 The Work shall be conducted by the Contractor in strict accordance with the Agreement and all applicable laws, regulations, codes, or directives including Federal, State, County, and City.
- 2.1.5 The Contractor shall maintain accurate and complete records, files, and libraries of documents to demonstrate compliance with Federal, State, and local regulations, codes, applicable laws listed herein, and manufacturers' instructions and recommendations which are necessary and related to the Work to be performed.
- 2.1.6 The Contractor shall prepare and submit required reports, maintain current record drawings, and submit required information. The Contractor shall provide: materials lists to include trade names and brand names and model materials lists to include trade names, brand names, model numbers, and ratings (if appropriate) for all materials necessary to complete the Work Order.
- 2.1.7 In addition to the Tasks in the CTC, Book 3, NJPA may, from time to time, require Non Pre-priced Tasks. These Non Pre-priced Tasks will be incorporated into individual Work Orders.
- 2.1.8 All Work shall comply with any applicable standards, including those specified in the following documents. If the Work Order specifies a standard which is different or more stringent, the standard used in the Work Order shall control:
 - 2.1.8.1 Governing Codes
 - 2.1.8.2 The State Department of Transportation Standard Specifications for Road and Bridge Construction
 - 2.1.8.3 The specific Work Order supplemental specifications
 - 2.1.8.4 Work Order Contract Technical Specifications – Book 4
 - 2.1.8.4.1 The Technical Specifications, Book 4, are numbered and organized in the Construction Specification Institute's (CSI) master format. All specifications are filed in divisions 2 through 16 per CSI guidelines.
 - 2.1.8.4.2 The intent of these specifications is to furnish concise industry and commercial standards for construction, maintenance or repair of NJPA Member facilities.

- 2.1.8.4.3 Reference in the Technical Specifications or the CTC to a specific manufacturer, trade name, or catalog is intended to be descriptive but not restrictive and only to indicate to the prospective Bidder items that will be satisfactory.

3. ARCHITECTURAL AND ENGINEERING SERVICES

- 3.1 Under this Agreement it is expected that the level of A/E services and design, if any, will be incidental to the Agreement and therefore any cost associated with this is to be included in the Contractor's Adjustment Factors. If the level of A/E services for a Work Order requires that the Contractor provide stamped drawings and plans, the NJPA member will be required to provide the stamped drawings and plans outside of the Work Order.. The Contractor will be required, as on any construction project, to provide shop drawings, as-built drawings, project layout drawings, and sketches as required.
- 3.2 The preparation of incidental drawings/plans, specifications, safety plans, shop drawings, product data and samples, as-builts, and all other documentation required herein by the Contractor as required by individual Work Orders is part of the Scope of Work of this Agreement and the cost there of shall be included in the Contractor's Adjustment Factors.

4. TERM OF AGREEMENT

- 4.1 This Agreement is for term shown on the IFB. The Contractor may withdraw from the Agreement on each anniversary of the award, provided that the Contractor provides 60 Days written notice of its intent to withdraw. NJPA may, for any reason, terminate this Agreement at any time.
- 4.2 A Work Order may be issued by an NJPA Member at any time during the term of this Agreement even though the Work and the payments made for such Work occur after the term ends. All the provisions of this Agreement are incorporated into each Work Order issued hereunder.

5. GEOGRAPHIC AREA

Contractor will primarily work in the Geographic Area designated. However, if both parties agree, the Contractor may work in another Geographic Area at the Adjustment Factors bid or as adjusted according to Article 7 below.

6. ESTIMATED ANNUAL VALUE

The Estimated Annual Value of the Agreement is as specified in the IFB. The Contractor is not guaranteed to receive any Work Orders under this Agreement. The Estimated Annual Value is not a limit on the total value of Work Orders that could be issued to the Contractor in any one year.

7. UPDATING THE ADJUSTMENT FACTORS

- 7.1 Economic Price Adjustment: The Adjustment Factors shall be updated on each anniversary of the award date according to the following:
- 7.1.1 A Base Year Index shall be calculated by averaging the 12 month Construction Cost Indices (CCI) for the 20 City Average Index published in the Engineering News Record (ENR) for the 12 months immediately prior to the month of the award date.
- 7.1.2 A Current Year Index shall be calculated by averaging the 12 month CCIs for 20 City Average Index published in ENR for the 12 months immediately prior to the month of the anniversary.
- 7.1.3 The Economic Price Adjustment shall be calculated by dividing the Current

Year Index by the Base Year Index.

- 7.1.4 The Adjustment Factors being updated shall be multiplied by the Economic Price Adjustment to obtain the new Adjustment Factors effective for the next 12 months.
- 7.1.5 Averages shall be obtained by summing the 12 month indices and dividing by 12.
- 7.1.6 All calculations shall be carried to the fifth decimal place and rounded to the fourth decimal place. The following rules shall be used for rounding:
 - 7.1.6.1 The fourth decimal place shall be rounded up when the fifth decimal place is five (5) or greater.
 - 7.1.6.2 The fourth decimal place shall remain unchanged when the fifth decimal place is less than five (5).
- 7.2 ENR occasionally revises CCIs. The CCIs used in the calculations described above shall be those currently published at the time the Economic Price Adjustment calculation is performed. No retroactive adjustments will be made as a result of an ENR revision. Revised CCIs, if any, shall be used in subsequent calculations.
- 7.3 Unlike the Contractor's Normal Working Hours Adjustment Factor and Other Than Normal Working Hours Adjustment Factor which shall be annually adjusted to account for construction escalation or de-escalation as provided in this Article, the Contractor's Non Pre-priced Task Adjustment Factor shall remain unchanged for the total duration of the Contract.

8. PROCEDURE FOR ORDERING WORK

8.1 Initiation of a Work Order

- 8.1.1 As the need exists, NJPA (or their designated representative) will, on behalf of an NJPA Member, notify the Contractor of a project and schedule a Joint Scope Meeting.
- 8.1.2 The Contractor shall attend the Joint Scope Meeting to discuss, at a minimum:
 - a. the general scope of the Work,
 - b. alternatives for performing the Work and value engineering,
 - c. access to the site and protocol for admission,
 - d. hours of operation,
 - e. staging area,
 - f. requirements for professional services, sketches, drawings, and specifications,
 - g. construction schedule,
 - h. the presence of hazardous materials, and
 - i. date on which the Price Proposal is due.
- 8.1.3 Upon completion of the joint scoping process, NJPA (or their designated representative), working with the NJPA Member, will prepare a Detailed Scope of Work referencing any sketches, drawings, photographs, and/or specifications required to document accurately the work to be accomplished. NJPA (or their designated representative) will issue a Request for Proposal that will require the Contractor to prepare a Price Proposal. The Detailed

Scope of Work, unless modified by both the Contractor and NJPA (or their designated representative), will be the basis on which the Contractor will develop its Price Proposal and NJPA (or their designated representative) and the NJPA Member will evaluate the same. The Contractor does not have the right to refuse to perform any Task or any work in connection with a particular project.

8.2 Preparation of the Price Proposal: The Contractor will prepare Price Proposals in accordance with the following:

8.2.1 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 from the Construction Task Catalog and the quantities required.

8.2.2 Non Pre-priced Tasks: A Non Pre-priced Task is a Task which is not in the Construction Task Catalog.

8.2.2.1 If the Contractor will perform the Non Pre-priced Task with its own forces, it shall submit three independent quotes for all materials to be installed and shall provide a breakdown of the labor and equipment costs.

8.2.2.2 If the Non Pre-priced Task is to be subcontracted, the Contractor must submit three independent bids from Subcontractors. The Contractor shall not submit a quote or bid from any supplier or Subcontractor that the Contractor is not prepared to use. NJPA may require additional quotes and bids if the suppliers or Subcontractors are not acceptable or if the prices are not deemed reasonable by NJPA or their designated representative.

8.2.2.3 Pricing Non Pre-priced Tasks: The final price submitted for Non Pre-priced Tasks shall be according to the following formula. Each Non Pre-priced Task must be supported with the necessary back-up documents including the calculation below:

For Work Performed with the Contractor's Own Forces:

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-perform work = $(A+B+C) \times \text{NPP Adjustment Factor}$

For Work Performed by Subcontractors: If the Work is to be subcontracted, the Contractor must submit three independent bids from Subcontractors. If three quotes or bids can not be obtained, the Contractor will provide the reason in writing for NJPA Member's approval why three quotes cannot be submitted.

D = Subcontractor Costs (supported by three quotes)

Total Cost of Non Pre-priced Task = $D \times \text{NPP Adjustment Factor}$

8.2.2.4 At the discretion of the NJPA (or their designated representative), Non Pre-priced Tasks, as well as other Tasks, may be added to the CTC during the course of the Agreement. Unit prices will be established based on actual quotes from material suppliers and installers and fixed as a permanent Pre-priced Task in the CTC.

8.2.2.5 NJPA (or their designated representative) 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.

8.2.2.6 **Unlike the Normal Working Hours Adjustment Factor and the Other than Normal Working Hours Adjustment Factor, the Non Pre-priced Adjustment Factor shall not be adjusted by the provisions of Article 7 above for the duration of the Agreement.**

8.2.3 The Contractor shall submit with the Price Proposal the subcontractor list, and any required drawings or sketches.

8.3 Time for Submittal of the Price Proposal

8.3.1 The Contractor's Price Proposal shall be submitted by the date set forth in the Request for Proposal. The time allowed for preparation of the Proposal will depend on the complexity and urgency of the Work Order, but in no event should exceed **seven (7) days**.

8.3.2 In emergency situations and for Work Orders requiring immediate completion, the Proposal may be required quickly and the due date will be so indicated on the Request for Proposal or, the Contractor may begin work immediately, with the paperwork to follow.

8.4 Review of the Price Proposal

8.4.1 NJPA (or their designated representative) and/or the NJPA Member will evaluate the Contractor's Price Proposal by evaluating the nature and number of Tasks proposed against the agreed upon Detail Scope of Work and will determine the reasonableness of approach. Furthermore NJPA (or their designated representative) or NJPA Member may compare the Contractor's Price Proposal to the NJPA Member cost estimate for the Detail Scope of Work. NJPA (or their designated representative) or the NJPA Member reserves the right to reject a Contractor's Price Proposal based on unjustifiable quantities and/or Work items, performance periods, inadequate documentation, or other inconsistencies on the Contractor's part. The NJPA Member also reserves the right to not award a Purchase Order if that is determined to be in the best interests of NJPA and the NJPA Member.

8.4.2 If NJPA (or their designated representative) or the NJPA Member finds the Contractor's Price Proposal unacceptable, NJPA (or their designated representative) may request the Contractor to re-submit its Price Proposal or cancel the Work Order. The Contractor is expected to submit correct Price Proposals the first time. However NJPA recognizes that some adjustments might have to be made to the Price Proposal after review by NJPA (or their designated representative) and the NJPA Member. Therefore, NJPA (or their designated representative) will allow the Contractor to submit the first Price Proposal and a second Price Proposal for each Work Order. If after the second review by NJPA (or their designated representative) and the NJPA Member, NJPA (or their designated representative) or the NJPA Member finds errors in the Price Proposal that were not corrected, this may be reason to suspend the issuance of future Work Orders.

8.4.3 If the Contractor continues to submit Price Proposals which are rejected by NJPA (or their designated representative), NJPA may declare the Contractor in default and initiate termination of the Agreement, according to Article 34 of the Contract General Conditions. If the Contractor is required to re-submit its Price Proposal, the re-submitted Price Proposal(s) must be submitted within 48 hours. If the Contractor fails to meet the 48 hour re-submittal deadline this may be reason to suspend the issuance of future Work Orders.

8.4.4 The means and methods of construction shall be such as the Contractor may

choose; subject however, to NJPA's right to reject means and methods proposed by the Contractor that:

- 8.4.4.1 Will constitute or create a hazard to the Work, or to persons or property; or
- 8.4.4.2 Will not produce finished Work in accordance with the terms of the Contract; or
- 8.4.4.3 Unnecessarily increases the price of the Work Order when alternative means and methods are available.
- 8.4.5 After NJPA (or their designated representative) or the NJPA Member have reviewed the Contractor's Price Proposal and agreement has been reached between the NJPA Member 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 changes agreed to.
- 8.4.6 NJPA reserves the right to obtain Price Proposals from any or all of the Contractors awarded an IQCC Contract.
- 8.5 Issuing the Purchase Order
 - 8.5.1 When the Price Proposal is accepted, the NJPA Member may send to the Contractor a signed or unsigned Purchase Order and a notice of intent to award a Purchase Order or a similar document.
- 8.6 The Work Order Proposal Package
 - 8.6.1 Time for Submittal: The Contractor shall submit a Work Order Proposal Package within eight (8) working days or earlier if directed by the NJPA Member, of receipt of the Purchase Order, notice of intent to award a Purchase Order, or similar document. If the Contractor fails to meet the deadline for submittal of the Work Order Proposal Package this may be reason to suspend the issuance of future Work Orders.
 - 8.6.2 The Work Order Proposal Package includes:
 - a. final/revised Price Proposal as agreed to,
 - b. final drawings, calculations, and/or specifications,
 - c. final catalog cuts,
 - d. final back-up for any Non Pre-priced Tasks,
 - e. identification of all Subcontractors and material suppliers,
 - f. final construction schedule,
 - g. for special equipment a copy of the warranty documents, and
 - h. performance and payment bond, and material and workmanship bonds if required.
- 8.7 Review of the Work Order Proposal Package and Issuance of the Notice to Proceed
 - 8.7.1 NJPA (or their designated representative) and the NJPA Member will evaluate the entire Work Order Proposal Package.
 - 8.7.2 NJPA (or their designated representative) and the NJPA Member reserve the right to reject a Contractor's Work Order Proposal Package for any reason.
 - 8.7.3 By submitting a Work Order Proposal Package to the NJPA Member, the Contractor is offering to complete the Detail Scope of Work within the final construction schedule for the amount of the Price Proposal. It is the Contractor's responsibility to include the necessary tasks in the Price

Proposal prior to delivering it to the NJPA Member

- 8.7.4 Upon approval of the Work Order Proposal Package by NJPA (or their designated representative) and the NJPA Member, NJPA (or their designated representative) or the NJPA Member may issue a Notice to Proceed, a signed Purchase Order, Notice of Award, or similar document accepting the Contractor's offer. The document will include:
- a. Reference to the Detail Scope of Work
 - b. The Work Order Amount
 - c. Start date, Work Order Completion Time (duration) and completion date
 - d. Whether liquidated damages will apply
- 8.8 Submittal of Performance and Payment Bond
- 8.8.1 If the amount or estimated amount of an individual work order exceeds \$25,000, Contractor shall furnish a payment bond in 100% of the amount the work order, which bond shall be written by a corporate surety or sureties authorized to do insurance business in the State of California and licensed to issue surety bonds in California and shall fully comply with the requirements of Chapter 5 (commencing at §3225) and Chapter 7 (commencing at §3247), Title 15, Part 4, Division 3 of the California Civil Code. The payment bond shall guarantee the prompt and proper payment of subcontractors, laborers, and mechanics employed on the work order, and shall be written on the form acceptable to the NJPA Member. This bond must be maintained in full force and effect until all Work is completed and accepted by the NJPA Member, and until all claims for materials and labor have been paid.
- 8.8.2 If the amount or estimated amount of an individual work order exceeds \$25,000, Contractor shall furnish a performance bond in 100% of the amount the work order, which bond shall be written by a corporate surety or sureties authorized to do insurance business in the State of California and licensed to issue surety bonds in California and shall fully comply with applicable California State law. The performance bond shall guarantee the timely and proper performance and completion of the work order and shall be written on the form acceptable to the NJPA Member. It shall also include the replacing, or making acceptable, of any defective materials or faulty workmanship during the Guarantee period(s).
- 8.8.3 If any Surety or Sureties are deemed unsatisfactory at any time by Owner, Owner will notify Contractor, and Contractor must forthwith substitute a new Surety or Sureties satisfactory to Owner. No further payment will be deemed due or made until the replacement Sureties qualify and are accepted by Owner.
- 8.8.2 All changes to the Work Order Value, Work Order Time, or Contract Documents may be made without securing the consent of the Surety or Sureties on the Contract Bonds.
- 8.9 Changes
- 8.9.1 The NJPA Member reserves the right to make, in writing, at any time during the Work, changes in the Detailed Scope of Work as are necessary to satisfactorily complete the Project, and to delete in whole or in part, or to add to, the Detailed Scope of Work. Such changes, deletions, or additions will not invalidate the Agreement or the Work Order nor release the surety, if any, and the Contractor agrees to perform the Work as altered.
- 8.9.2 All changes, deletions, and/or additions to the Detailed Scope of Work will be reflected in a Supplemental Work Order priced in accordance with the

procedure for developing and approving all Price Proposals.

9. PUNCH LIST COMPLETION

- 9.1 The Contractor understands and agrees that time is of the essence in closing out the Work of this Contract. Upon Substantial Completion of the Work, the Punch List will be transmitted to the Contractor from the NJPA Member. The Contractor agrees to begin performance of Punch List Work immediately after receipt of the Punch List.
- 9.2 Failure of the Contractor or its Subcontractors to begin the Punch List Work within Three (3) business days after receipt of the Punch List will be construed as failure to prosecute the Work of the Contract.
- 9.3 Punch List Work will be continuously prosecuted once begun and completed within thirty (30) Days from the receipt of the Punch List. Should the Contractor fail to complete the Punch List within this period of time, the liquidated damages as identified in Article 30 of the Contract General Conditions will apply.

10. PAYMENT AND PERFORMANCE BONDS AND MATERIAL AND WORKMANSHIP BONDS

If required by the NJPA Member for a particular Work Order, the Contractor shall deliver a Labor and Material Payment Bond and a Performance Bond in the amount of such Work Order. If required by the NJPA Member for a particular Work Order, the Contractor shall deliver Material and Workmanship Bonds in the amount required by the NJPA Member. The bonds must be in a form, and executed by a surety, acceptable to the NJPA Member and as described in Article 8.8.1 and 8.8.2. The bonds must be received before the Work Order will be issued.

11. COMPUTER SOFTWARE

The Contractor shall maintain at its office for its use a computer with an internet connection. The Contractor will be furnished with a copy of the internet based PROGEN software which will allow the Contractor to generate Proposals. This software program contains an electronic copy of the Construction Task Catalog and allows the Contractor to select items and quantities for use in a particular Proposal. The software generates a Proposal in a preset format acceptable to the NJPA Member. There is no separate charge to the Contractor for the software and the related software training.

12. PREPAYMENT OPTION

An NJPA Member may elect to deposit the funds for any Project or Work Order in a special account established by NJPA for the purpose of paying the Contractors for work to be performed. Funds shall be transferred into and out of such account in strict accordance with the rules and procedures established therefor.

13. STANDARDS OF PERFORMANCE

IQCC is a performance based contracting system. The continuation of the Agreement to the end of the term will depend upon the Contractor's performance in the following performance standards.

- a. Timely Submission of the Contractor's Price Proposal and Work Order Proposal Package: The Contractor shall submit Price Proposals during the time periods in Article 8.3.1 and 8.4.3 and the Work Order Proposal in accordance with Article 8.5.1. Failure to submit the above within the time so stipulated will be an event of non-performance.
- b. Quality of the Contractor's Price Proposal: The Contractor, in preparation of its Price Proposal, shall select only those tasks from the CTC® that are required to accomplish the project's Scope of Work at the required quantity. Failure of the Contractor to justify its selection of tasks at the selected quantities will be an event of Non-performance. The Contractor is expected to submit Price Proposals correct the first time. However

NJPA recognizes that some adjustments might have to be made to the Price Proposal after review by the NJPA or authorized representative and the NJPA Member. Therefore, the Contractor will be allowed to submit the first Price Proposal and a second Price Proposal for each Work Order. If corrections are not made to the satisfaction of the NJPA authorized representative or the NJPA Member after the second submitted Price Proposal, this will be an event of Non-performance.

- c. **Quality of Construction:** The Contractor shall perform the construction work in accordance with the Contract Documents and perform any Punch List Work in accordance with the Contract Documents. Failure of the Contractor to perform the construction work in accordance with the Contract Documents or to perform Punch List Work in accordance with Article 9 will be an event of Non-performance.
- d. **Maintaining Schedule:** The Contractor shall perform the construction work according to the schedule agreed to and documented in the Notice to Proceed. Additionally the Contractor shall provide construction schedules for each Work Order according to Article 38, Book 2 Section Two. Failure of the Contractor to provide and maintain schedules and prosecute the Work according the established schedules will be an event of Non-performance.

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SECTION TWO – CONTRACT GENERAL CONDITIONS

1. PROJECT MANAGER

Project Manager: the person or firm designated by the NJPA Member and authorized to represent the NJPA Member in connection with a signed Work Order.

2. NJPA MEMBER'S RIGHT TO STOP WORK

The NJPA Member may order the Contractor to stop the Work on any Work Order, or any portion thereof, at any time for any reason.

3. NJPA MEMBER'S RIGHT TO COMPLETE WORK

If the Contractor has been ordered to stop the Work, the NJPA Member may, without prejudice to other remedies, have the Work completed by any available means.

4. REVIEW OF FIELD CONDITIONS

4.1 Before submitting a Proposal, the Contractor shall carefully study the Detailed Scope of Work, as well as the information furnished by the NJPA Member; shall take field measurements of any existing conditions related to the Work; and shall observe any conditions at the Site affecting it. Any errors, inconsistencies, or omissions discovered by the Contractor shall be reported promptly to the Project Manager.

4.2 Any design errors or omissions noted by the Contractor during this review shall be reported promptly to the Project Manager, but it is recognized that the Contractor's review is made in the Contractor's capacity as a Contractor and not as a licensed design professional. The Contractor is not required to ascertain that the Detailed Scope of Work is in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, any nonconformity discovered by, or made known to, the Contractor shall be reported promptly to the Project Manager.

5. SUPERVISION

5.1 The Contractor shall supervise and direct the performance of the Detailed Scope of Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work. If the Detailed Scope of Work gives specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the Site safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences, or procedures may not be safe, the Contractor shall give timely written notice to the Project Manager and shall not proceed with that portion of the Work without further written instructions from the Project Manager.

5.2 The Contractor shall be responsible to the NJPA Member for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the work for or on behalf of the Contractor or any of its Subcontractors.

5.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

6. WORKMANSHIP AND QUALITY

6.1 The Contractor may make substitutions only with the consent of the Project Manager.

- 6.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not skilled in the portions of the Work assigned to them.

7. WARRANTY

- 7.1 All Work furnished under this Agreement shall be guaranteed against defective materials and workmanship, improper performance, and non-compliance with the Contract Documents for a period of one year after final acceptance of the Work, except as otherwise specified in other parts of the Contract Documents, or within such longer period of time as may be prescribed by law or provided by the manufacturer.
- 7.2 During the guarantee period, the Contractor shall repair and replace at Contractor's own expense, all Work that may develop defects whether such defects may be inherent in the equipment or materials, in the functioning of the piece of equipment, or in the functioning and operation of pieces of equipment operating together as a functional unit. Any equipment or material which is repaired or replaced shall have the guarantee period extended for a period of one year from the date of the last repair or replacement.
- 7.3 If the Contractor fails to repair, replace, rebuild, or restore such defective or damaged Work promptly after receiving such notice, the NJPA Member shall have the right to have the Work done by others and to deduct the cost thereof from the monies owed to the Contractor. If the amount owed is insufficient to cover such costs, the Contractor shall be liable to pay such deficiency on demand.
- 7.4 The Project Manager's certificate setting forth the fair and reasonable cost of repairing, replacing, rebuilding, or restoring any damaged or defective Work when performed by one other than the Contractor shall be binding and conclusive as the amount thereof upon the Contractor.
- 7.5 The Contractor shall obtain all manufacturer's warranties and guarantees of all equipment and materials required by this Agreement in the name of the NJPA Member.

8. PERMITS, FILING

- 8.1 The Contractor will be reimbursed the actual cost of a filing or permit as part of its Price Proposal paid with the "Reimbursable Item" Task from the Construction Task Catalog without markup (Factor of 1.0000). However, the cost(s) of expediting services or equipment use fees are not reimbursable.
- 8.2 The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations, and lawful orders of public authorities applicable to performance of the Work.
- 8.3 It is not the Contractor's responsibility to ascertain that the Detailed Scope of Work is in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the Contractor observes that any portion of the Detailed Scope of Work is at variance therewith, the Contractor shall promptly notify the Project Manager in writing.

9. PERSONNEL

The Contractor shall employ competent personnel for the development of the Projects's Detailed Scope of Work, the preparation of the Price Proposal, and the execution of the Work. During the performance of the Work, the superintendent assigned to the Project shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case.

10. SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

- 10.1 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Detailed Scope of Work for which submittals are required by the Contract Documents the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Detailed Scope of Work. Submittals which are not required by the Contract Documents may be returned by the Project Manager without action.
- 10.2 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Project Manager Shop Drawings, Product Data, Samples, and similar submittals required with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the NJPA Member or of separate contractors. Submittals which are not marked as reviewed for compliance with the Contract Documents and approved by the Contractor may be returned by the Project Manager without action.
- 10.3 By approving and submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements, and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Detailed Scope of Work and of the Contract Documents.
- 10.4 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals until the respective submittal has been approved by the Project Manager.
- 10.5 The Work shall be performed in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Project Manager's approval of Shop Drawings, Product Data, Samples, or similar submittals unless the Contractor has specifically informed the Project Manager in writing of such deviation at the time of submittal and (1) the Project Manager has given written approval to the specific deviation as a minor change in the Work or (2) a Supplemental Work Order or written notice has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals by the Project Manager's approval thereof.
- 10.6 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Project Manager on previous submittals. In the absence of such written notice the Project Manager's approval of a resubmission shall not apply to such revisions.
- 10.7 The Contractor shall not be required to provide professional services which constitute the practice of architecture or engineering unless such services are specifically required by the Detailed Scope of Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Detailed Scope of Work, the NJPA Member will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose

signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Project Manager. The NJPA Member shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided the NJPA Member has specified to the Contractor all performance and design criteria that such services must satisfy. The Project Manager will review, approve, or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Detailed Scope of Work. The Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Detailed Scope of Work.

11. CUTTING AND PATCHING

- 11.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Detailed Scope of Work or to make its parts fit together properly.
- 11.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the NJPA Member or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the NJPA Member or a separate contractor except with written consent of the NJPA Member and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the NJPA Member or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

12. CLEANING UP

- 12.1 The Contractor shall keep the Site and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Work Order. At completion of the Work, the Contractor shall remove from and about the Site all waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials.
- 12.2 If the Contractor fails to clean up, the NJPA Member may do so and the cost thereof shall be charged to the Contractor.

13. ACCESS TO THE WORK

The Contractor shall provide the Project Manager access to the Work at all times.

14. ROYALTIES, PATENTS, AND COPYRIGHTS

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the NJPA Member and Project Manager harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the NJPA Member or Project Manager. However, if the Contractor has reason to believe that the required design, process, or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Project Manager.

15. INDEMNIFICATION

- 15.1 To the fullest extent permitted by law and to the extent claims, damages, losses, or expenses are not covered by insurance purchased by the Contractor, the Contractor shall indemnify and hold harmless NJPA, the NJPA Member, Project Manager, consultants, and agents and employees of any of them from and against claims,

damages, losses, and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), but only to extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph.

- 15.2 In claims against any person or entity indemnified under this Paragraph by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

16. SUBCONTRACTORS

- 16.1 The Contractor, with the submission of the Work Order Proposal, shall furnish in writing to the Project Manager a list of each subcontractor whom the Contractor proposes to subcontract portions of the work in an amount in excess of one-half of 1 percent of the total Work Order, in accordance with Section 4104 of the California Public Contract Code. The provisions of the Subletting and Subcontracting Fair Practices Act, beginning with Public Contract Code §4100, related to penalties for use of unauthorized Subcontractors or by making unauthorized substitutions will apply.
- 16.2 The Project Manager will promptly reply to the Contractor in writing stating whether or not, after due investigation, Contractor has reasonable objection to any such proposed person or entity. Failure of the Project Manager to reply promptly shall constitute notice of no reasonable objection.
- 16.3 The Contractor shall not contract with a proposed person or entity to whom the NJPA Member or Project Manager has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.
- 16.4 If the NJPA Member or Project Manager has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the NJPA Member or Project Manager has no reasonable objection.

17. COORDINATION WITH OTHER CONTRACTORS

- 17.1 The NJPA Member reserves the right to perform construction or operations related to the Work Order with the NJPA Member's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the Site.
- 17.2 The NJPA Member shall provide for coordination of the activities of the NJPA Member's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the NJPA Member in reviewing their construction schedules when directed to do so. The Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors, and the NJPA Member until subsequently revised.

18. REQUEST FOR EXTENSION OF TIME

- 18.1 If the Contractor is delayed at any time in the commencement or progress of the Detailed Scope of Work by an act or neglect of the NJPA Member or Project Manager, or of an employee of either, or of a separate contractor employed by the NJPA Member, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control, or by other causes which the Project Manager determines may justify delay, then the Work Order Completion Time shall be extended for such reasonable time as the Project Manager may determine.
- 18.2 The Contractor agrees to make no claim for damages for the delay in the performance of any Work Order occasioned by any act or omission to act of the NJPA Member, Project Manager, or any of their representatives, and agrees that any such claim shall be fully compensated for by an extension of time as provided herein.

19. PARTIAL PAYMENTS

- 19.1 The Contractor may submit a monthly Application for Payment for Work completed to date. The Contractor shall submit Certified Payroll Records, and such other supporting documentation as may be required by the Project Manager. The Project Manager will inspect the work within a reasonable time and the NJPA Member shall make partial payments to the Contractor based on the approved value of completed Work.
- 19.2 The NJPA Member may withhold up to 5% of each payment until final completion of the Work Order.
- 19.3 The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the NJPA Member, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to its Sub-Subcontractors in a similar manner.

20. FINAL PAYMENTS

- 20.1 The Contractor shall notify the Project Manager when the Detailed Scope of Work is complete and ready for final inspection. The Project Manager will promptly make such inspection. If the Project Manager finds the Detailed Scope of Work complete and all final documentation submitted, the Project Manager will notify the Contractor that a final Application for Payment may be submitted.
- 20.2 The Contractor may then submit a final Application for Payment. The Contractor shall submit Certified Payroll Records (as applicable) and such supporting documentation as may be required by the Project Manager. The NJPA Member shall make final payment to the Contractor.
- 20.3 Acceptance of final payment by the Contractor, a Subcontractor, or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

21. PARTIAL OCCUPANCY OR USE

- 21.1 The NJPA Member may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the NJPA Member and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security,

maintenance, heat, utilities, damage to the Work, and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Project Manager. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the NJPA Member and Contractor.

- 21.2 Immediately prior to such partial occupancy or use, the NJPA Member, Contractor, and Project Manager shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.
- 21.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

22. IDENTIFICATION AND SECURITY REQUIREMENTS

The Contractor shall comply with all identification and security requirements that the NJPA Member may establish.

23. PROTECTION OF PERSONS AND PROPERTY

- 23.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to:
 - 23.1.1 employees on the Work and other persons who may be affected thereby;
 - 23.1.2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
 - 23.1.3 other property at the Site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.
- 23.2 The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury, or loss.
- 23.3 The Contractor shall erect and maintain, as required by existing conditions and performance of the Detailed Scope of Work, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying NJPA Member and users of adjacent sites and utilities.
- 23.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.
- 23.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible, except damage or loss attributable to acts or omissions of the NJPA Member or Project Manager or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's other obligations included herein.

23.6 The Contractor shall designate a responsible member of the Contractor's organization at the Site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Project Manager.

23.7 The Contractor shall not load or permit any part of the construction or Site to be loaded so as to endanger its safety.

24. HAZARDOUS MATERIALS

24.1 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to lead based paint, asbestos or polychlorinated biphenyl (PCB), encountered on the Site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop the Work in the affected area and report the condition to the Project Manager in writing.

24.2 The NJPA Member shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless. Unless otherwise required by the Contract Documents, the NJPA Member shall furnish in writing to the Contractor and Project Manager the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the Task of removal or safe containment of such material or substance. The Contractor and the Project Manager will promptly reply to the NJPA Member in writing stating whether or not either has reasonable objection to the persons or entities proposed by the NJPA Member. If either the Contractor or Project Manager has an objection to a person or entity proposed by the NJPA Member, the NJPA Member shall propose another to whom the Contractor and the Project Manager have no reasonable objection. When the material or substance has been rendered harmless, the Work in the affected area shall resume upon written agreement of the NJPA Member and Contractor. The Work Order Completion Time shall be extended appropriately.

24.3 To the fullest extent permitted by law, the NJPA Member shall indemnify and hold harmless the Contractor, Subcontractors, Project Manager, Project Manager's consultants and agents, and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described herein and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself) and provided that such damage, loss, or expense is not due to the sole negligence of a party seeking indemnity.

28.4 The NJPA Member shall not be responsible for materials and substances brought to the Site by the Contractor unless such materials or substances were required by the Detailed Scope of Work.

24.5 If, without negligence on the part of the Contractor, the Contractor is held liable for the cost of remediation of a hazardous material or substance solely by reason of performing the Work as required by the Contract Documents, the NJPA Member shall indemnify the Contractor for all cost and expense thereby incurred.

25. INSURANCE REQUIREMENTS

25.1 The Contractor shall procure and maintain, at its own cost and expense, until final acceptance of all the Work covered by this Agreement, the following kinds of insurance:

- 25.1.1 Workers' Compensation Insurance. A policy complying with the requirements of the laws of the State in which the Project is located.
- 25.1.2 General Liability and Property Damage Insurance. A standard general comprehensive liability insurance policy or a commercial general liability insurance policy issued to and covering the liability of the Contractor for all Work and operations under this Agreement, including, but not limited to, contractual and completed operations coverage. The coverage under such policy shall not be less than the following limits: Bodily Injury and Property Damage Liability, \$ 1,000,000 Each Occurrence, 2,000,000 Aggregate.
- 25.1.3 Automobile Liability and Property Damage Insurance. A policy covering the use in connection with the Work covered by the Contract Documents of all owned, non-owned, and hired vehicles bearing, or, under the circumstances under which they are being used, required by the Motor Vehicle Laws of the State in which the Project is located. The coverage under such policy shall not be less than the following limit: Bodily Injury and Property Damage Liability, \$ 1,000,000 Each Occurrence.
- 25.1.4 All Risk Builders Risk Insurance. Where specifically required in the Detailed Scope of Work, the Contractor shall provide, before the Work Order is issued, Builders' Risk Insurance in an amount at least equal to the Work Order Price in a form and by a carrier acceptable to the NJPA Member.
- 25.1.5 Pollution Liability Insurance. If a Project involves asbestos abatement encapsulation or other activities involving hazardous materials, the Contractor, Subcontractor or other party responsible for such Work shall procure and maintain a liability insurance policy issued to and covering the liability, of the Contractor, Subcontractor or other party engaged in the removal, or handling of hazardous materials, for bodily injury, illness, sickness or property damage caused by exposure in an amount not less than \$1,000,000 per occurrence and \$2,000,000 aggregate.
- 25.2 The Contractor shall provide certificates of insurance. Such certificates shall be on a form prescribed by NJPA, shall list the various coverages, and shall contain, in addition to any provisions hereinbefore required, a provision that the policy shall not be changed or cancelled and that it will be automatically renewed upon expiration and continued in force until final acceptance by NJPA, or NJPA Member, of all the Work covered by the Agreement, unless NJPA is given fifteen (15) days' written notice to the contrary. Upon request, the Contractor shall furnish NJPA or any NJPA Member with a certified copy of each policy.
- 25.3 All insurance required to be procured and maintained as aforesaid must be procured from insurance companies approved by NJPA.
- 25.4 If at any time any of the above-required insurance policies should be cancelled, terminated, or modified so that insurance is not in effect as above required, then, if NJPA shall so direct, the Contractor shall suspend performance of the Work. If the said Work is so suspended, no extension of time shall be due on account thereof. If said Work is not suspended, then NJPA may, at its option, obtain insurance affording coverage equal to that above required, the cost of such insurance to be payable by the Contractor.
- 25.5 Should the awarded Contractor retain a Subcontractor to perform any of the services mentioned herein, it is the Contractor's responsibility to insure that the Subcontractor(s) maintains the same types of insurance coverage in accordance with the requirements and amounts indicated herein.
- 25.6 NJPA, its officers, and employees must be included as a named insured. Any NJPA

Member, its officials, officers, and employees must be included as a named insured when so requested by the NJPA Member.

26. LIQUIDATED DAMAGES

- 26.1 If provided for in the Request for Proposal, NJPA may assess liquidated damages for each day after the Work Order Completion Time that the Detailed Scope of Work is not complete.
- 26.2 The liquidated damages shall be equal to 1% of the total Work Order Amount for each calendar day of delay.

27. TESTS AND INSPECTIONS

- 27.1 Tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations, or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the NJPA Member, or with the appropriate public authority. The Contractor shall give the Project Manager timely notice of when and where tests and inspections are to be made so that the Project Manager may be present for such procedures.
- 27.2 If the Project Manager, NJPA Member, or public authorities having jurisdiction determine that portions of the Work require, through no fault of the Contractor, additional testing, inspection, or approval, the Project Manager will instruct the Contractor to make arrangements for such additional testing, inspection, or approval by an entity acceptable to the NJPA Member, and the Contractor shall give timely notice to the Project Manager of when and where tests and inspections are to be made so that the Project Manager may be present for such procedures. Such costs shall be at the NJPA Member's expense.
- 27.3 If such procedures for testing, inspection, or approval reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Project Manager's services and expenses, shall be at the Contractor's expense.
- 27.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Project Manager.
- 27.5 If the Project Manager is to observe tests, inspections, or approvals required by the Contract Documents, the Project Manager will do so promptly and, where practicable, at the normal place of testing.
- 27.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

28. GOVERNING LAW

- 28.1 The Agreement shall be governed by the law of the place where the Project is located.
- 28.2 NJPA's liability shall be governed by the provisions of the Minnesota Tort Claims Act, Minnesota Statutes, Section 3.736, and other applicable law.
- 28.3 All claims and controversies between NJPA and Contractor shall be subject to the laws of the State of Minnesota and are to be resolved in Todd County, Minnesota.

29. COMPLIANCE WITH LAWS

- 29.1 In connection with the performance of this Agreement, the Contractor shall comply with all applicable laws, rules, and regulations. The parties hereto agree that every

provision of law required to be inserted herein be deemed a part hereof. It is further agreed that if any such provision is not inserted or is incorrectly inserted, through mistake or otherwise, this Agreement shall be deemed amended so as to comply strictly with the law.

30. SEVERANCE

If the Contract Documents contains any unlawful provision not an essential part of the Contract Documents and which shall not appear to have been a controlling or material inducement to the making thereof, the same shall be deemed of no effect and shall, upon notice by either party, be deemed stricken without affecting the binding force of the remainder.

31. LICENSE

Contractor shall obtain all licenses required from all public agencies with jurisdiction over the Work and shall keep these documents properly posted at the site at all times during the performance of the Work.

32. ASSIGNMENT

No right or interest in this Agreement shall be assigned or transferred by the Contractor without prior written consent of NJPA. No delegation of any duty of the Contractor shall be made without prior written consent of NJPA.

33. CLAIMS AND DISPUTES

All claims or disputes between the NJPA Member and Contractor shall be resolved by NJPA Member's representative.

34. TERMINATION BY THE NJPA FOR CAUSE

34.1 NJPA may terminate the Contract if the Contractor:

- 34.1.1 persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- 34.1.2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- 34.1.3 persistently disregards laws, ordinances, or rules, regulations, or orders of a public authority having jurisdiction; or
- 34.1.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

34.2 If an unpaid balance of one or more Work Orders exceeds the costs of finishing the Work, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to NJPA.

34.3 The NJPA Member may not terminate this Contract between the NJPA and the Contractor.

35. NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND AMERICANS WITH DISABILITIES ACT

35.1 The Contractor shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, age, color, sex, National origin, sexual orientation, marital status, political affiliation, or physical or mental disability if qualified. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during their employment without regard to their race, religion, color, sex, National origin, sexual orientation, marital status, political affiliation, or physical or mental disability. Such actions 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 of training, including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

- 35.2 The Contractor shall comply with Title I of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability. In addition, the Contractor shall take affirmative steps to ensure nondiscrimination in employment against disabled persons. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

36. AUDITS

NJPA may, at any time after reasonable notice, audit Contractor's records to establish total compliance and to verify the prices charged are in accordance with the Agreement. Contractor agrees to provide verifiable documentation and tracking in a timely manner.

37. GRATUITIES

NJPA may cancel this Agreement if it is found that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any employee of NJPA, are deemed to be excessive with a view toward securing a contract or with respect to the performance of this contract. However, paying the expenses of normal business meals or travel to meetings as described and allowed by law, which are generally made available to all eligible school and government employees, shall not be prohibited by this paragraph. Samples of software, equipment, or hardware provided to NJPA for demonstration, evaluation, or loan purposes are not considered gratuities.

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**THE
GORDIAN
GROUP®**



CONSTRUCTION PROCUREMENT SIMPLIFIED™





Work Order Signature Document

NJPA EZIQC Contract No.: CA02-B3-111808-NCB

☒

New Work Order

☐

Modify an Existing Work Order

Work Order Number.: 01-2011-EDA/COR-FM087200C Work Order Date: 07/07/2011

Work Order Title: 911Elect. & Mech Up-Grade System: BASE: Install CRAC Units, Build Central Pnt & Underground piping

Owner Name: County of Riverside Contractor Name: New Creation Builders

Contact: John Alfred Contact: Jimmy Chung

Phone: (951) 955-4844 Phone: (562) 804-0478

Work to be Performed

Work to be performed as per the Final Detailed Scope of Work Attached and as per the terms and conditions of NJPA EZIQC Contract No CA02-B3-111808-NCB.

Brief Work Order Description:

HVAC & Mechanical up-grade for Riverside County 911 Communications Center

Time of Performance

Estimated Start Date: 07/18/2011

Estimated Completion Date: 11/18/2011

Liquidated Damages

Will apply:

☐☐

Work Order Firm Fixed Price: \$1,024,537.98

Owner Purchase Order Number:

Approvals

See Agreement Form

Owner

Date

Contractor

Date



Detailed Scope of Work

To: Tony Ponco
New Creation Builders
17809 Clark Ave.
Bellflower, CA 90706
(714) 757-7700

From: John Alfred
County of Riverside
3133 Mission Inn Avenue
Riverside, CA 92507-4199
(951) 955-4844

Date Printed: June 29, 2011

Work Order Number: 01-2011-EDA/COR-FM08720000043.00

Work Order Title: 911Elect. & Mech Up-Grade System: BASE: Install CRAC Units, Build Central Plnt & Underg

Brief Scope: HVAC & Mechanical up-grade for Riverside County 911 Communications Center

☐

Preliminary

☐

Revised

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Final

The following items detail the scope of work as discussed at the site. All requirements necessary to accomplish the items set forth below shall be considered part of this scope of work.

County Of Riverside 911 Call Center Scope Of Work

The general intent of this project is to complete the following:

Plans dated April 29, 2011, Pages T-1.0, M-0.1, M-0.2, M1.0,M-1.1, M-2.1, M-3.1,M-3.2, M-3.3, M-4.1, M-5.1, M-5.2, M-5.3, M-5.4, M-6.1, M-6.2, M-6.3, E-0.0,E-0.1A, E-0.1B, E-0.2A, E-0.2B, E-1.0A, E-1.0B, E-2.0, E-2.1, E-3.0, E-4.0, E-5.0, Last sheet by LEJA Surveying Corp. Topography Plat. For reference.

Engineers:

Mechanical- SC Engineers, Inc. 17075 Via Del Campo, First Floor, San Diego, Ca. 92127

Electrical- Engineering Design Solutions, Inc. 10650 Scripps Ranch Blvd. Suite 106, San Diego, Ca. 92131

Specifications Dated: April 22, 2011, Prepared by Shadpour Consulting Engineers, Inc. and Engineering design Solutions Inc. Sections 1100, 1140, 1320, 1330, 1400, 1500, 1700, 1731, 1732, 1770, 1782, 2300, 2551, 2821, 3301, 13930,15050, 15060,15071, 15075, 15080, 15110, 15122, 15150, 15181, 15185, 15191,15430, 15628, 15734,15815,15820,15838,15855,15900,15950, 16010,16120, 16140, 16170, 16181, 16182, 16230, 16235, 16240,16350,16411,16415, 16450, 16460, 16471, 16472, and 16721.

- Sheet T-1.0 Title Page- No Scope Associated with this page.
- Sheet M-0.2- Mechanical Legend and notes
 - General Notes 1-15 are included, but limited to design and engineering that is included in drawings and specifications.
 - Title 24 notes 1-5 are included, but limited to design and engineering that is included in drawings and specifications.
 - Start Up and commissioning notes are included, but limited to design and engineering that is included in drawings and specifications.
- Sheet M-0.2- Mechanical Schedules
 - (1) Quantity ASME Storage tank- 500 Gallon, as scheduled, is included.
 - (1) Quantity Floor sink as scheduled, with associated plumbing is included.
 - Air distribution as noted is included.

Detailed Scope of Work Continues..

Work Order Number: 01-2011-EDA/COR-FM08720000043.00

Work Order Title: 911Elect. & Mech Up-Grade System: BASE: Install CRAC Units, Build Central Plnt &
Underground piping

- (1) Air Separator as scheduled is included.
- (2) Supply Air Fans, as scheduled, are included.
- (2) End Suction pumps as scheduled, are included.
- (1) Diaphragm Expansion Tank, as scheduled, is included.
 - ALL EQUIPMENT AS SCHEDULED IS EXCLUDED, INCLUDING BUT NOT LIMITED TO THE FOLLOWING:
 - CHILLER 1, LABELED AS CH-1
 - CHILLER 2, LABELED AS CH-2
 - CHILLER 3, LABELED AS CH-3 FUTURE CHILLER
 - COMPUTER ROOM EQUIPMENT SCHEDULED AS:
 - CRU-1A
 - CRU-1B
 - CRU-1C
 - CRU-2A
 - CRU-2B
 - CRU-3A
 - CRU-3B
- ALL MECHANICAL EQUIPMENT TO BE PROVIDED BY COUNTY OF RIVERSIDE.
- Pricing to include, receive, offload, set, and anchor equipment provided by others, one time only. Price does not include multiple handling of equipment or storage of equipment. Additional fees will be required to handle equipment more than one time or store materials offsite and deliver to site at a later date.
- Sheet M1.0 Site Plan- No Scope associated with this sheet, for reference only.
- Sheet M-1.1 Enlarged Site Plan
 - Routing for pipe to be followed as shown on drawings, any deviation from the drawings increasing length of pipe run shall be done at additional cost chargeable to the County of Riverside.
 - Follow slab section detail as shown in detail 2.
- Sheet M-2.1 Communication Equipment Room Demolition Plan
 - Keynotes 1-7 are acknowledged as follows:
 - Note 1 Excluded
 - Note 2 Included
 - Note 3 Included
 - Note 4 Included
 - Note 5 Included

Detailed Scope of Work Continues..

Work Order Number: 01-2011-EDA/COR-FM08720000043.00

Work Order Title: 911Elect. & Mech Up-Grade System: BASE: Install CRAC Units, Build Central Pint & Underground piping

- Note 6 Included
 - Note 7 Included
 - Details 1, 2, 3 ,4 , Included.
- Sheet M-3.1- Computer and Communication Equipment Room Plan
 - Detail 1, Included
 - Detail A, Included
- Sheet M-3.2- Electronic Equipment Room Plan
 - Detail 1, included
 - Detail 2, included
 - Detail A, Included.
- Sheet M-3.3 Generator Yard Plan
 - Details 1, 2, 3, and 4 Included.
 - Keynotes 1, 2, and 3 Included.
- Sheet M-4.1 Chilled Water Diagram
 - Detail 1, Included and acknowledged.
- Sheet M-5.1 Mechanical Details
 - Details 1, 2, 3, 5, 6, 7, and 8 included and acknowledged.
 - Detail 4, slab included, anchorage included, frame by others.
- Sheet M-5.2 Mechanical Details
 - Details 1, 2, 3, 4, 5, and 6 Included and acknowledged.
- Sheet M-5.3 Mechanical Details
 - Gate post schedule, Included
 - Steel post schedule, Included
 - Offset hinge detail, Included
 - Standard hinge detail, Included
 - Swing gate details, Included
 - Line post attachment detail, Included

Detailed Scope of Work Continues..

Work Order Number: 01-2011-EDA/COR-FM08720000043.00

Work Order Title: 911Elect. & Mech Up-Grade System: BASE: Install CRAC Units, Build Central Pint &
Underground piping

- Gate post section at curb and gutter, Included
 - Detail 1, chain link swing gate, included
 - Notes are included for general intent use only.
- Sheet M-5.4 Mechanical Details
 - Detail 1, Slab on Grade is included and acknowledged for general intent use only.
 - Detail 2, Typical Housekeeping pad is included and acknowledged for general intent use only.
 - Detail 3, Slab on grade is included and acknowledged for general intent use only.
 - Detail 4, Trench detail is included and acknowledged for general intent use only.
 - Detail 5, Joint detail is included and acknowledged for general intent use only.
 - Detail 6, Duct bank detail is included and acknowledged for general intent use only.
 - Detail 7, Generator pad protective detail is included and acknowledged for general intent use only.
- Sheet M-6.1 Mechanical Controls
 - Detail 1 DDC System Architecture is included and acknowledged for general intent use only.
 - Detail 2 CRAC Control System Architecture is included and acknowledged for general intent use only.
- Sheet M-6.2 Mechanical Controls
 - Detail 1, DDC Controller is included and acknowledged for general intent use only.
 - Detail 2, Supply Fan Control is included and acknowledged for general intent use only.
 - Detail 3, Typical VFD Control is included and acknowledged for general intent use only.
 - Detail 4, Typical Chiller Control is included and acknowledged for general intent use only.
 - Detail 5, CRAC Unit Control is included and acknowledged for general intent use only.
 - Detail 6, Remote alarm Annunciator (AA-1) is included and acknowledged for general intent use only.
- Sheet M- 6.3 Mechanical Controls
 - Detail 1, Chilled water control Diagram is included and acknowledged for general intent

Detailed Scope of Work Continues..

Work Order Number: 01-2011-EDA/COR-FM08720000043.00

Work Order Title: 911Elect. & Mech Up-Grade System: BASE: Install CRAC Units, Build Central Plnt &
Underground piping
use only.

- Additional Controls Scope provided by scheduled/ proposed controls contractor. This scope is subject to change based on request from client or general contractor choice. Changes from this scope may include a cost increase. Price and scope is based on the following which is the proposed controls system.
- Installation of a new HVAC Direct Digital Control (DDC) System as Identified below to monitor and control the new central plant and data room CRAC units. The DDC system shall be engineered using TAC Controllers and a TAC LON gateway to communicate via Modbus to the new dedicated equipment. The System will be programmed with graphic pages to be viewed on a new Dell workstation with Vista Software.
- Chiller Plant Interface- Monitor and enable two new chillers for lead lag operation via TAC LON Gateway Modbus and report all available points to the TAC front end. We will also monitor the chill water VFD, water temp, flow rate, and system pressure per the system diagram on page M4.1. We will also supply 2 butterfly valves for unite isolation to be given to the mechanical contractor for installation.
- Liebert CRAC Units- Monitor units via TAC LON gateway and report all available Modbus points to the TAC front end. We will also provide hard wire controls for start, status, and unit alarms. Unit status will be verified using a current sensing witch. As described per drawing M6.2 Control valves for each unit will be provided to the mechanical contractor for installation.
- Supply Fan- Monitor and enable 2 supply fans for unit enable, fan status, and filter status per the drawing M6.2. Unit start will be enabled through the Mag Starter provided by the electrical contractor.
- Remote Alarm Annunciator- Monitor points via Lon Gateway and Hardwire points for the purpose of alarm annunciation a new remote alarm panel as shown in the drawing M6.2. This panel will monitor the following points for status. The UPS fire suppression, UPS HVAC, upper RCIT computer HVAC, lower sheriff computer HVAC, and CHW plant.
- New items that require Modbus Communications will use factory mounted communication cards supplied with the new equipment provided by others. Pricing does not include any new equipment interfaces beside the TAC Lon Gateway.
- Installation of in-line pipe or duct-mounted devices of any type (including, but not limited to, valves, dampers, humidifiers, wells, taps, flow meters, orifices, etc., if required hereunder to be furnished by Seller, shall be distributed and installed by others under Seller's supervision, but at no additional cost to Seller.) are installed by the Mechanical Contractor.
- Temporary Controls and/or Power are not included.
- Permits are not included.
- Electrical Contractor will furnish and install 120VAC Power wiring to BMS Control Panels; Owner to provide dedicated circuit, and circuit breakers for BMS power.

Detailed Scope of Work Continues..

Work Order Number: 01-2011-EDA/COR-FM08720000043.00

Work Order Title: 911Elect. & Mech Up-Grade System: BASE: Install CRAC Units, Build Central PInt &
Underground piping

- Scope includes FCS commissioning using our performance testing standard procedures.
- This proposal was based without Division 01 specifications. Any additional cost required for special insurance requirements, clean-up fees, and/or temporary controls are not included within this proposal.
- We assume an Ethernet Drop will be provided for our site control equipment for the purpose of viewing system from offsite.
- Fire Life Safety Systems including but not limited to the control or monitoring of the Fire Smoke Dampers, Duct Smoke Detectors, Fire Alarm Systems, Smoke Control Systems, Annunciator Panel, FSD status switches, and Stairwell Pressurizations Systems will be the responsibility of others.

- Sheet E-0.0 Symbols, Notes, Abbreviations and General Notes

- Fire Penetrations Note is included
- General Notes 1-19 are included
- Wiring Symbols are acknowledged
- Power Symbols are acknowledged
- Applicable codes are acknowledged

- Sheet E-0.1A Overall Electrical Site Plan With Out New Generator

- Detail 1, Enlarged Electrical Site Plan, is acknowledged for general intent use only.
- Detail 2, Duct Bank Section, is acknowledged for general intent use only.
- Key Notes 1-11 are included.

- Sheet E-01.B Overall Electrical Site Plan with New Generator, BID ALTERNATE

- SHEET IS EXCLUDED AND IS NOT INCLUDED IN THIS SCOPE OF WORK

- Sheet E-0.2A Overall Electrical Site Plan With Out Generator

- Detail 1, Enlarged Electrical Site Plan, is acknowledged for general intent use only.
- Detail A, Elevation With New Generator is EXCLUDED.
- Key Notes 1- 19 are acknowledged for general intent use only.

- Sheet E-0.2B Overall Site Plan With New Generator- BID ALTERNATIVE

- SHEET IS EXCLUDED AND IS NOT INCLUDED IN THIS SCOPE OF WORK

Detailed Scope of Work Continues..

Work Order Number: 01-2011-EDA/COR-FM08720000043.00

Work Order Title: 911Elect. & Mech Up-Grade System: BASE: Install CRAC Units, Build Central Pint & Underground piping

- Sheet E-1.0A Overall Single Line Diagram Without NEW 500KW Generator- MARKED NOT FOR CONSTRUCTION
 - Detail, Overall Single Line Diagram, partially included.
 - M & E Upgrade Project is included and assumed accurate is acknowledged for general intent use only.
 - UPS Upgrade Project is EXCLUDED.
- Sheet E-1.0B Overall Single Line Diagram WithNEW 500KW Generator- MARKED NOT FOR CONSTRUCTION
 - SHEET IS EXCLUDED AND IS NOT INCLUDED IN THIS SCOPE OF WORK
- Sheet E-2.0 Upper Level Floor Plan
 - Detail, Overall floor plan, is included and assumed accurate is acknowledged for general intent use only.
 - Key Notes 1 and 2 is included.
- Sheet E-2.1 Computer and Communication Room Floor Plan Demo and New
 - Detail 1, Electronic Equipment Room Demolition Floor Plan is included.
 - Detail 2, Comp. And Comm. Equipment Room Demolition Floor Plan is included
 - Key Notes 1-3 Are assumed accurate and are acknowledged
 - Detail 3, Electronic Equipment Room Mechanical Floor Plan is included
 - Detail 4, Comp. and Comm. Equipment Room Electrical Floor Plan is included
 - Key Notes 1-6 Are assumed accurate and are acknowledged
- Sheet 3.0 Details
 - Detail 1, Typical Special Name Plate (TYP NAME PLATE) is included
 - Detail 2, Name Plate Detail (FOR MOTOR CONNECTION) is included
 - Detail 3, Conduit Stub Up, is included
 - Detail 4,Transformer Seismic Restraint Mounting is included
 - Detail 5, Conduit Support is included and assumed accurate is acknowledged for general intent use only. Actual may vary but still adhere to current codes and applicable standards (NEC).
 - Detail 6, Direct Connection Between Transformer and Concrete Slab Support is included and assumed accurate is acknowledged for general intent use only. Actual may vary but still adhere to current codes and applicable standards (NEC and

Detailed Scope of Work Continues..

Work Order Number: 01-2011-EDA/COR-FM08720000043.00

Work Order Title: 911Elect. & Mech Up-Grade System: BASE: Install CRAC Units, Build Central Pnt &

Underground piping
SMACNA).

- Detail 7, Conduit Support Detail Support is included and assumed accurate is acknowledged for general intent use only. Actual may vary but still adhere to current codes and applicable standards (NEC and SMACNA).
 - Detail 8, Free Stand Mounted Disconnect, Filtration Motor Starter and Auxiliary Gutter Elevation Detail, Inclusive of Key Notes 1-13, is included and assumed accurate is acknowledged for general intent use only. Actual may vary but still adhere to current codes and applicable standards (NEC and SMACNA).
- Sheet E-4.0 Panel Schedules
 - Panel Schedules are assumed accurate and are acknowledged for general intent use only.
- Sheet E-5.0 Panel Schedules
 - Panel Schedules are assumed accurate and are acknowledged for general intent use only.
- Sheet- Survey Plat Dated 16, MARCH 2011.
 - Sheet stamped but unsigned by Steve Leja, LEJA Engineering Corp.
 - Sheet is assumed accurate is acknowledged for general intent use only.
- Additional Controls Scope provided by scheduled/ proposed electrical contractor. This scope is subject to change based on request from client or general contractor choice. Changes from this scope may include a cost increase. Price and scope is based on the following which is the proposed electrical subcontractor's defined scope of work.
- Included:
 - Saw cut, trench slurry, backfill, compact and replace concrete and asphalt for the installation of electrical conduits per E0.1B& E0.2B
 - Install underground vaults, conduit and wiring per E0.1B & E0.2B
 - Install circuit breakers in existing panel for new feeders.
 - Supply and install new distribution panel "EDBCP".
 - Supply and install step-down transformer and 50-amp sub-panel.
 - Supply and install Nema 3r disconnects for new chillers and pumps per single line diagram.
 - Install mechanical supplied variable frequency drives.
 - Install conduit and wiring to feed new chillers and pumps.
 - Supply and install automatic transfer switches ATS 2 & ATS 3.
 - Supply and install new 1600-amp "Paralleling Switchgear".
 - Install conduits between Paralleling Switchgear and ATS 1, ATS-2 & ATS-3.
 - Install conduit stub for future generator #3.

Detailed Scope of Work Continues..

Work Order Number: 01-2011-EDA/COR-FM08720000043.00

Work Order Title: 911Elect. & Mech Up-Grade System: BASE: Install CRAC Units, Build Central Plnt &

Underground piping

- Convert existing manual transfer switch to pull box.
- Perform short circuit study per specifications.
- Supply and install new 500KW Cummins generator.
- Modify existing generator for paralleling to new Cummins generator.
- Install conduit and wiring from generator to ATS 2 & ATS 3 for generator start signal.
- Install conduit and wiring from generator to generator control panel.
- Disconnect conduit and wiring feeding CRU units to be replaced
- Install circuit breakers in existing panels per panel schedules for new CRU units.
- Supply and install disconnects, conduit and wiring to new CRU units per electrical drawings.

General Exclusions:

- Supplying of electrical engineered drawings or cad drawings.
 - Wiring not in bold on single line diagrams.
 - Any and All permit fees
- Any piping reinforcements at roof area (no details and specifications provided)
- Any flooring works (no details and specifications provided)

Contractor

Date

Owner

Date



Work Order Signature Document

NJPA EZIQC Contract No.: CA02-B3-111808-NCB

☐

New Work Order

☒

Modify an Existing Work Order

Work Order Number.: 01-2011-EDA/COR-FM087200C Work Order Date: 07/07/2011

Work Order Title: 911 Elect& Mech Up-Grade System: ALT 2: Pricing only; CRAC Units & 90 TON Chillers

Owner Name: County of Riverside Contractor Name: New Creation Builders

Contact: John Alfred Contact: Jimmy Chung

Phone: (951) 955-4844 Phone: (562) 804-0478

Work to be Performed

Work to be performed as per the Final Detailed Scope of Work Attached and as per the terms and conditions of NJPA EZIQC Contract No CA02-B3-111808-NCB.

Brief Work Order Description:

Time of Performance Estimated Start Date: 07/18/2011
Estimated Completion Date: 11/18/2011

Liquidated Damages

Will apply:

☐☐

Work Order Firm Fixed Price: \$253,326.45

Owner Purchase Order Number:

Approvals

See Agreement Form

Owner

Date

Contractor

Date



Detailed Scope of Work

To: Tony Ponco
New Creation Builders
17809 Clark Ave.
Bellflower, CA 90706
(714) 757-7700

From: John Alfred
County of Riverside
3133 Mission Inn Avenue
Riverside, CA 92507-4199
(951) 955-4844

Date Printed: June 29, 2011

Work Order Number: 01-2011-EDA/COR-FM08720000043.02

Work Order Title: 911 Elect& Mech Up-Grade System: ALT 2: Pricing only; CRAC Units & 90 TON Chillers

Brief Scope:

☐

Preliminary

☐

Revised

☒

Final

The following items detail the scope of work as discussed at the site. All requirements necessary to accomplish the items set forth below shall be considered part of this scope of work.

County Of Riverside 911 Call Center Scope Of Work

The general intent of this project is to complete the following:

Provide equipment as detailed in the following.

Plans dated April 29, 2011, Page, M-0.2

Engineers:

Mechanical- SC Engineers, Inc. 17075 Via Del Campo, First Floor, San Diego, Ca. 92127

Specifications Dated: April 22, 2011, Prepared by Shadpour Consulting Engineers, Inc. and Engineering design Solutions Inc. Sections, 15628 and 15734

- Sheet M-0.2- Mechanical Legend and notes
 - General Notes 1-15 are Excluded
 - Title 24 notes 1-5 are Excluded
 - Start Up and commissioning notes are included, but limited to design and engineering that is included in drawings and specifications.
- Sheet M-0.2- Mechanical Schedules
 - (1) Quantity ASME Storage tank- 500 Gallon, as scheduled, is Excluded.
 - (1) Quantity Floor sink as scheduled, with associated plumbing is Excluded.
 - Air distribution as noted is Excluded.
 - (1) Air Separator as scheduled is Excluded.
 - (2) Supply Air Fans, as scheduled, are Excluded.
 - (2) End Suction pumps as scheduled, are Excluded.
 - (1) Diaphragm Expansion Tank, as scheduled, is Excluded.
 - ALL EQUIPMENT AS SCHEDULED IS INCLUDED, INCLUDING BUT NOT LIMITED TO THE FOLLOWING:
 - CHILLER 1, LABELED AS CH-1
 - CHILLER 2, LABELED AS CH-2
 - CHILLER 3, LABELED AS CH-3 FUTURE CHILLER

Detailed Scope of Work Continues..

Work Order Number: 01-2011-EDA/COR-FM08720000043.02

Work Order Title: 911 Elect& Mech Up-Grade System: ALT 2: Pricing only; CRAC Units & 90 TON Chillers

- COMPUTER ROOM EQUIPMENT SCHEDULED AS:
 - CRU-1A
 - CRU-1B
 - CRU-1C
 - CRU-2A
 - CRU-2B
 - CRU-3A
 - CRU-3B
- ALL MECHANICAL EQUIPMENT TO BE PROVIDED BY NEW CREATION BUILDERS.
- Pricing to include, receive, offload, set, and anchor equipment provided by others, one time only. Price does not include multiple handling of equipment or storage of equipment. Additional fees will be required to handle equipment more than one time or store materials offsite and deliver to site at a later date.
- Warranty is basic that is supplied by manufacturer; troubleshooting, parts, and labor are excluded. No extended coverage is included.

General Exclusions:

- Any and All permit fees
- Any Extended warranty

Detailed Scope of Work Continues..

Work Order Number: 01-2011-EDA/COR-FM08720000043.02

Work Order Title: 911 Elect& Mech Up-Grade System: ALT 2: Pricing only; CRAC Units & 90 TON Chillers

Contractor

Date

Owner

Date

WORK ORDER AGREEMENT FORM

THIS WORK ORDER, entered into this _____ day of _____, 2011, by and between New Creation Builders, hereinafter called the "Contractor", and the County of Riverside hereinafter called the "Owner".

WITNESSETH: That the parties hereto have mutually covenanted and agreed as follows:

CONTRACT: The Complete Contract includes all of the Contract Documents, to wit: NJPA Membership Agreement, NJPA Indefinite Quantity Construction Agreement, NJPA EZIQC Contract Documents, EZIQC Work Order & Detailed Scope of Work documents, Wage Schedule, Payment and Performance Bonds, the Construction Task Catalog and Technical Specifications plus any Addenda thereto, the General Conditions, the Supplementary General Conditions, Plans and Specifications and this Work Order Agreement. All Contract Documents are intended to cooperate and be complimentary so that any work called for in one and not mentioned in the other, or vice versa, is to be executed the same as if mentioned in all Contract Documents. Where any conflicts might arise between the NJPA EZIQC Contract Documents and the County's General Conditions, all County documents shall take precedence.

STATEMENT OF WORK: The Contractor hereby agrees to furnish all tools, equipment, services, apparatus, facilities, transportation, labor and materials for the Completion of Phase 2B of the 9-1-1 Communications-Public Safety Systems Infrastructure Upgrade. In strict accordance with the Plans and Specifications dated May 2011 prepared by SC Engineers & the County of Riverside hereinafter called the "architect", including NJPA-EZIQC Contract Documents, the Construction Task Catalogue also including Addenda thereto as listed in the NJPA Indefinite Quantity Construction Agreement, all of which are made a part hereof.

TIME FOR COMPLETION: The work shall be commenced on a date to be specified in a written order of the Owner and shall be completed within one hundred and five (105) calendar days from and after said date. It is expressly agreed that except for extensions of time duly granted in the manner and for the reasons specified in the General Conditions, time shall be of the essence.

COMPENSATION TO BE PAID TO CONTRACTOR: The Owner agrees to pay and the Contractor agrees to accept in full consideration for the performance of this Work Order, subject to additions and deductions as provided in the General Conditions and contract documents, the sum of one million, two hundred seventy seven thousand, eight hundred sixty four dollars (\$1,277,864) being the total of the base EZIQC Work Order Proposal and the Alternate 2 EZIQC Work Order Proposal. The sum to be paid according to the scheduled as provided in the General Conditions.

Pursuant to Labor Code, Section 1861, the Contractor gives the following certification: I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this Contract.

IN WITNESS WHEREOF, the parties hereto on the day and year first above written have executed this agreement in four (4) counterparts.

Type of Contractor's organization: _____

If other than individual or corporation, list names of all members who have authority to bind firm.

_____, _____, _____
Firm Name: _____

Address: _____

Contractor's License No.: _____

IF OTHER THAN CORPORATION EXECUTE HERE

Signature: _____

Title: _____

Affix Seal

IF CORPORATION, FILL OUT FOLLOWING AND EXECUTE

If

Name of President of Corporation: _____

Corporation

Name of Secretary of Corporation: _____

Corporation is organized under the laws of State of _____

Signature: _____

Title: _____

Owner: COUNTY OF RIVERSIDE

Signature: _____

Title: Chairman - Board of Supervisors

Attest: Clerk - Board of Supervisors

By: _____

Title: _____

PAYMENT BOND

(Public Work - Civil Code Section 3247 et seq.)

The makers of this Bond are _____ as Principal and Original Contractor and _____, a corporation, authorized to issue Surety Bonds in California, as Surety, and this Bond is issued in conjunction with that certain public works contract, Phase 2B of the 9-1-1 Communications Public Safety Infrastructure Upgrade dated _____, 2011 between Principal and County of Riverside, a public entity, as owner, for one million, two hundred seventy seven thousand, eight hundred sixty four dollars (\$1,277,864) the total amount payable. THE AMOUNT OF THIS BOND IS 100% OF SAID SUM. Said contract is for public work of: Phase 2B of the 9-1-1 Communications Public Safety Infrastructure Upgrade.

The beneficiaries of this Bond are as is stated in 3248 of the Civil Code and the requirements and conditions of this Bond are as is set forth in Sections 3248, 3249, 3250 and 3252 of said Code. Without notice, Surety consents to extension of time for performance, change in requirements, amount of compensation, or prepayment under said Contract.

Signed and Sealed this _____ Day of _____ 2011.

(Firm Name - Principal)

(Business Address)

Affix Seal
if
Corporation

By: _____
(Signature - Attach Notary's Acknowledgment)

(Title)

(Corporation Name - Surety)

(Business Address)

Affix
Corporate
Seal

By: _____
(Signature - Attached Notary's Acknowledgment)

ATTORNEY-IN-FACT
(Title-Attach Power of Attorney)

PERFORMANCE BOND

The makers of this Bond, _____, as Principal, and _____ as Surety, are held and firmly bound unto County of Riverside, hereinafter called the Owner, in the sum of one million, two hundred seventy seven thousand, eight hundred sixty four dollars (\$1,277,864) for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

The condition of this obligation is such that whereas the Principal entered into a certain contract, hereto attached, with the Owner, dated _____, 2011 for Phase 2B of the 9-1-1 Communications Public Safety Infrastructure Upgrade.

Now therefore, if the Principal shall well and truly perform and fulfill all the undertakings covenants, terms, conditions and agreements of said Contract during the original term of said Contract and any extension thereof that may be granted by the Owner, with or without notice to the Surety, and during the file of any guarantee required under the Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of said Contract that may thereafter be made, then this obligation to be void, otherwise to remain in full force and virtue. Without notice, Surety consents to extension of time for performance, change in requirements, change in compensation or prepayment under said Contract.

Signed and Sealed this _____ Day of _____, 2011.

(Firm Name - Principal)

Seal
(Business Address)

By: _____
(Signature - Attach Notary's Acknowledgment)

(Title)

Affix

if
Corporation

(Corporation Name - Surety)

(Business Address)

By: _____
(Signature - Attach Notary's Acknowledgment)

Affix
Corporate
Seal

ATTORNEY-IN-FACT
(Title-Attach Power of Attorney)

**CONTRACTOR'S CERTIFICATE
REGARDING WORKERS' COMPENSATION**

Labor Code Section 3700

Every employer, except the State and all political subdivisions or institutions thereof, shall secure the payment of compensation in one or more of the following ways:

- (a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this State.
- (b) By securing from the Director of Industrial Relations, a Certificate of Consent to Self-Insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees

I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of this Contract.

Principal

Principal

Title

(In accordance with Article 5 [commencing at Section 1860], Chapter, Part 7, Division 2 of the Labor Code, the above Certificate must be signed and filed with the Owner prior to performing any work under this Contract.)

SUPPLEMENTAL GENERAL CONDITIONS
TABLE OF CONTENTS

ARTICLE 1	<u>GENERAL PROVISIONS</u>	- 1 -
	1.1 - Definitions	- 1 -
	1.2 - Authorities and Limitations	- 3 -
	1.3 - Legal Requirements	- 3 -
	1.4 - Standard References	- 3 -
	1.5 - Permits, Licenses, Fees & Taxes	- 4 -
	1.6 - Separate Contracts	- 4 -
	1.7 - County's Authorized Representative, Inspector(s) & Architect	- 5 -
	1.8 - Contract Scope	- 5 -
ARTICLE 2	<u>BONDS & INSURANCE</u>	- 6 -
	2.1 - Performance and Payment Bonds	- 6 -
	2.2 - Insurance	- 7 -
	2.3 - Indemnification	- 8 -
ARTICLE 3	<u>SITE CONDITIONS</u>	- 9 -
	3.1 - Differing Site Conditions	- 9 -
	3.2 - Dimensions and Measurements	- 9 -
ARTICLE 4	<u>SPECIFICATIONS AND DRAWINGS</u>	- 10 -
	4.1 - General Provisions	- 10 -
	4.2 - Summary of the Order of Precedence	- 10 -
	4.3 - Clarifications/Request for Information and Additional Instructions	- 11 -
ARTICLE 5	<u>SHOP DRAWINGS AND SUBMITTALS</u>	- 12 -
	5.1 - Shop Drawings, Product Data, Coordination Drawings and Schedules	- 12 -
	5.2 - Samples	- 13 -
	5.3 - Substitutions	- 14 -
ARTICLE 6	<u>SCHEDULES</u>	- 14 -
	6.1 - Construction Schedule	- 14 -
ARTICLE 7	<u>ORDERING PROCEDURES</u>	- 15 -
	7.1 - Procedures	- 15 -
	7.2 - Measurements to Be Verified	- 15 -
	7.3 - Caution To Contractors	- 15 -
ARTICLE 8	<u>TIME, LIQUIDATED DAMAGES AND EXTENSIONS</u>	- 16 -
	8.1 - Time of Work	- 16 -
	8.2 - Liquidated Damages	- 16 -
	8.3 - Unavoidable Delays	- 16 -
	8.4 - Request for Time Extension	- 17 -
ARTICLE 9	<u>PERFORMANCE</u>	- 18 -
	9.1 - Supervision & Construction Procedures	- 18 -
	9.2 - Supervision	- 18 -

	9.3 - Conduct of Work.....	- 18 -
	9.4 - Protection of Work & Property.....	- 18 -
	9.5 - Contractor's Responsibility for Work	- 19 -
	9.6 - Utilities	- 19 -
	9.7 - Working Hours.....	- 20 -
	9.8 - Material & Workmanship	- 20 -
	9.9 - Layout of Work	- 20 -
	9.10 - Use of Premises.....	- 20 -
	9.11 - Operations & Storage.....	- 20 -
	9.12 - Heat/Power/Light	- 21 -
	9.13 - Cleaning Up.....	- 21 -
ARTICLE 10	<u>SAFETY & HEALTH</u>	- 21 -
	10.1 - Accident Prevention	- 21 -
	10.2 - Sanitary Facilities	- 22 -
	10.3 - Responsibility for Compliance with Cal- OSHA.....	- 22 -
	10.4 - Toxic and Hazardous Materials and Waste	- 22 -
ARTICLE 11	<u>COUNTY-FURNISHED PROPERTY</u>	- 23 -
	11.1 - County-Furnished Property	- 23 -
ARTICLE 12	<u>BENEFICIAL OCCUPANCY</u>	- 23 -
	12.1 - Beneficial Occupancy	- 23 -
ARTICLE 13	<u>INSPECTION AND TESTING</u>	- 23 -
	13.1 - Inspection and Testing	- 23 -
	13.2 - Inspection by Other Jurisdictions.....	- 23 -
	13.3 - Final Inspection and Tests.....	- 23 -
ARTICLE 14	<u>ACCEPTANCE</u>	- 25 -
	14.1 - Acceptance of the Work.....	- 25 -
ARTICLE 15	<u>WARRANTY AND GUARANTEES</u>	- 25 -
	15.1 - Contractor's Warranty and Guarantee	- 25 -
ARTICLE 16	<u>ENVIRONMENTAL PROTECTION</u>	- 26 -
	16.1 - Dust Control	- 26 -
	16.2 - Excessive Noise.....	- 26 -
	16.3 - Pollution Control, Cleaning	- 26 -
ARTICLE 17	<u>EMPLOYMENT PRACTICES</u>	- 27 -
	17.1 - Qualifications for Employment and Apprenticeship Standards	- 27 -
	17.2 - Wages & Records.....	- 27 -
	17.3 - Notice of Labor Disputes	- 28 -
	17.4 - Nondiscrimination	- 29 -
ARTICLE 18	<u>SUBCONTRACTING</u>	- 30 -
	18.1 - Subcontractors	- 30 -
	18.2 - Relations of Contractor and Subcontractor.....	- 30 -
	18.3 - Subcontracts	- 30 -

ARTICLE 19	<u>TAXES</u>	- 31 -
	19.1 - Sales and Payroll Taxes	- 31 -
ARTICLE 20	<u>CHANGES</u>	- 31 -
	20.1 - Change Order Work	- 31 -
	20.2 - Change Orders and Labor Rates Guidelines	- 34 -
	20.3 - Audit	- 35 -
ARTICLE 21	<u>PAYMENT</u>	- 37 -
	21.1 - Payment	- 37 -
	21.2 - Final Payment	- 37 -
ARTICLE 22	<u>SUSPENSION OF WORK, TERMINATION</u>	- 38 -
	22.1 - Non-Compliance With Contract Requirements	- 38 -
	22.2 - Termination	- 38 -
ARTICLE 23	<u>DISPUTES/CLAIMS</u>	- 41 -
	23.1 - Claims	- 41 -
	23.2 - Claim Format/Requirements	- 42 -
	23.3 - Notice of Third Party Claims	- 42 -

WORK ORDER SUPPLEMENTAL GENERAL CONDITIONS

ARTICLE 1

GENERAL PROVISIONS

1.1

DEFINITIONS

ACT OF GOD - An Act of God is an earthquake of magnitude 4.5 or greater on the Richter scale, flood, tornado, or other cataclysmic phenomenon of nature, or rain, snowstorm, windstorm, high water, or other natural phenomenon in excess of the normal as established by National Oceanic and Atmospheric Administration weather data.

ACCEPTANCE OF WORK - Acceptance is when the County determines all of the Work Order requirements have been completed. Execution of the Notice of Completion will signify acceptance. A copy of the Notice of Completion will be sent to the Contractor after execution by the County. Upon receipt of the Notice of Completion, the Contractor will be relieved of the duty of protecting the work, and the County will initiate final settlement and payment.

ARCHITECT - The use of the term Architect shall mean the individual, partnership, corporation, association or joint venture contracted by the County for the design of the Work. Not all Purchase Order Scope of Work will have an Architect.

BENEFICIAL OCCUPANCY - The right of the County to occupy all or any portion of the project prior to final Acceptance of the Work. Such occupancy does not constitute acceptance or completion by the Contractor of the Work or any portion thereof, nor will it relieve the Contractor of the responsibility for correcting defective work or materials found at any time before Acceptance of the Work.

COUNTY - The term County when used herein shall mean the Board of Supervisors of the County of Riverside, a political subdivision of the State of California.

CONTRACT DRAWINGS - "Contract drawings" or "drawings" means and includes (a) all drawings which have been prepared on behalf of the County for the Work Order and all clarification drawings issued by notice to the bidders thereto; (b) all drawings submitted pursuant to the terms of the individual Work Order by the Contractor to the County during the progress of the Work, which are accepted by the County.

CONTRACTOR'S AGENT - The representative of the Contractor, approved by the County, who shall be present at the Work and be authorized to receive and act upon instructions from the County and to execute and direct the Work on behalf of the Contractor.

CONTRACTOR - When used herein, Contractor means the prime or principal Contractor licensed to perform work in the State of California, including all joint ventures. References to subcontractor or others are only for convenience and all such references shall be considered to refer to the Contractor. The prime or principal Contractor shall be responsible for all subcontractors, and all subcontractors shall require their subcontractors to comply with the relevant provisions of the prime or principal contract.

CRITICAL PATH METHOD (CPM) - "Critical Path Method" is a schedule technique.

DIRECTOR - The use of "Director" shall mean the Director of the Economic Development Agency of the County or his designated representative.

INSTALL - When used herein, "install" shall mean the complete installation, in place, of any item,

equipment or material.

MATERIAL - Material shall be construed to include machinery, equipment, manufactured articles, or construction such as form work, fasteners, etc., and any other classes of material to be furnished in connection with the Contract. All materials shall be new.

NOTICE OF COMPLETION- The Notice of Completion ("NOC") shall be issued by the Economic Development Agency at that point in the Work Order when the Contractor has completed all Work required in the Work Order. The time for issuance shall be determined by the County through a final inspection.

NOTICE TO PROCEED - The Notice to Proceed is the written notification from the County giving the Contractor notice to commence with the Work Order. The Notice to Proceed will specify the start date for the Work and the completion date.

PLANS & SPECIFICATIONS - The term "Plans & Specifications" means that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the Work. May be referred to herein as "specifications."

REQUEST FOR INFORMATION - (RFI) The form and procedure established for communication between the Contractor and the County to clarify or interpret the Work Order Documents.

SHALL - When used herein, "shall" means anything, which is mandatory to be performed by the Contractor.

SCOPE OF WORK – The Scope of Work is the complete description of services to be provided by the Contractor under a Work Order. The Scope of Work will include documentation for a given project. Documentation may include a narrative description of the work.

WORK - The term "Work" comprises the services and materials required by the Contract Documents, as may be amended, and includes all labor necessary to produce the construction required by the Contract Documents, and all materials and equipment incorporated or to be incorporated in such construction.

WORK HOURS - Normal Work Hours – Any eight hour shift between the hours of 7am to 5pm weekdays; Other Than Normal Work Hours – 5pm to 7 am weekdays, weekends and holidays.

WORK ORDER – (also sometimes referred to as Purchase Order in IQCC Terms & Conditions) means a firm, fixed priced, lump sum order issued by the County pursuant to the Work Order Proposal submitted by the Contractor. The Work Order will set forth a definite project scope of work as compiled from the Construction Task Catalog to be performed pursuant to the Work Order. A Work Order consists of plans, shop drawings, permits, specifications and the Scope of Work required to complete the Work. The County will be responsible for the development of the Scope of Work as well as the observation and acceptance of the work contained within the Work Order. The County will review the Contractor's Proposal and if acceptable, shall sign issue a Work Order and a Notice to Proceed for the work described therein. The Work Order will include a detailed scope of work, a firm fixed price proposal from the Contractor, a time duration for the completion of the work and any special conditions that might apply to the Work.

WORK ORDER TIME - The duration of time, stated in number of days, as set forth in the Work Order. Work Order Time is the stated number of days the Contractor has to perform the tasks set forth in the Scope of Work. Work Order Time can also mean more or less days than the original number of days stated in the Work Order if the Work Order is modified by a written Change Order.

1.2 AUTHORITIES AND LIMITATIONS

- 1.2.1** The Board of Supervisors alone has the power to bind the County and to exercise the rights, responsibilities, authorities, and functions vested therein by the Work Order Contract Documents, except that they shall have the right to designate authorized representatives to act for them.
- 1.2.2** Neither the Contract, nor any part thereof, nor moneys due or to become due there under may be assigned by the Contractor without the prior written approval of the County, with the exception of the assignments to County which may be required under the terms of this Contract.

1.3 LEGAL REQUIREMENTS

- 1.3.1** Contractor shall keep informed of, and comply with, all federal, state and county laws, ordinances, rules, and regulations applicable to the Work or to those engaged or employed in the Work of this Contract, especially (but not limited to) those laws relating to hours of employment, prevailing wages, payment of wages, sanitary and safety conditions for workers, workers' compensation insurance, type and kind of materials that can be used, non-discrimination in employment and affirmative action programs. Failure to identify a specific provision in these Contract Documents shall not excuse the Contractor from complying with such applicable statutory requirements.
- 1.3.2** If conflict arises between provisions of the Contract Documents and any such laws, rules, or regulations, the Contractor shall notify the County at once in writing. If, before receiving clarification, Contractor performs any portion of the Work affected by such apparent conflict, such performance shall be at Contractor's own risk. Contractor shall not be entitled to any additional compensation or time by reason of the conflict or its later correction.
- 1.3.3** All work and materials shall be in full accordance with the latest applicable (or otherwise noted) codes, rules, and regulations of California including, but not limited to, the following:
- .Uniform Building Code
 - .Uniform Plumbing Code
 - .Uniform Mechanical Code
 - .Uniform Fire Code
 - .State Fire Marshal
 - .State Industrial Accident Commission's Safety Orders
 - .Rules of Local Utilities
- 1.3.4** Nothing in the specifications is to be construed to permit work not conforming to the above, and expense incurred complying with the above shall be borne by the Contractor. Whenever the specifications and working details require higher standards than those required by the ordinances, codes and statutes, the specifications and working details shall take priority over the ordinances, codes and statutes.
- 1.3.5** In submitting a bid on this public works projects, or any subcontractor agreeing to supply goods, services, or materials, and entering a contract pursuant thereto, the contractor and/or subcontractor do offer and agree to assign the County all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final acknowledgement by the parties.

1.4 STANDARD REFERENCES

- 1.4.1** All documents and publications (such as, but not limited to, manuals, handbooks, codes, standards, and specifications) which are cited in this Contract for the purpose of establishing technical (non-administrative) requirements applicable to equipment, materials, or workmanship under this Contract, shall be deemed to be

incorporated herein as though fully set forth.

- 1.4.2** Whenever reference is made to any particular document or publication, the Contractor shall comply with the requirements set out in the edition specified in this Contract, or if not specified, the latest edition or revision thereof, in effect on the date of the solicitation of bid on this project, except as modified by, as otherwise provided in, or as limited to type, class, or grade, in the specifications of this Contract.

1.5 PERMITS, LICENSES, FEES & TAXES

1.5.1 COUNTYS RESPONSIBILITIES

- a. The County will apply for all plan checks and will apply for and obtain the Building Permit(s), the Grading Permit and Construction Permits required by the County of Riverside, paying all fees in connection therewith.
- b. The County will furnish, at no expense to the Contractor, all on-site inspection of the Work and will arrange and pay for off-site inspection only as noted in the Contract Documents.

1.5.2 CONTRACTOR'S RESPONSIBILITIES

- a. The Contractor shall obtain and pay for all other permits and licenses required for the Work, including excavation permit and for plumbing, mechanical and electrical work and for operations in or over public streets or right of way under jurisdiction of public agencies other than the County.
- b. Exclusive of off-site inspection specified herein to be the County's responsibility, the Contractor shall arrange and pay for all off-site inspection of the Work, including certification, required by the specifications, drawings, or by governing authorities.
- c. Before Acceptance of the project by the County, the Contractor shall submit all licenses, permits, and certificates of inspection to the County.
- d. The County shall reimburse the Contractor the actual cost of any required permit, without mark-up.

1.6 SEPARATE CONTRACTS

- 1.6.1** The County reserves the right to perform work related to this project with its own forces, and to award separate contracts in connection with other portions of the project or other work on the site. The Contractor shall cooperate with others in the prosecution of all work and shall not interfere with material, appliances or workmen of the County or any other contractor engaged by the County at the site of the Work. In case of disagreement regarding such use, the matter shall be referred to the County whose decision relative to said use shall govern.
- 1.6.2** The Contractor shall afford the County and separate contractors reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall properly connect and coordinate Contractor's Work with theirs.
- 1.6.3** If any part of the Contractor's Work depends for proper execution or results upon the work of the County or any separate contractor, the Contractor shall inspect and promptly report to the County any discrepancies or defects in such other work that render it unsuitable for such proper execution and results. Failure of the Contractor to so inspect and report shall constitute an acceptance of the County's or the separate contractor's work as fit and proper to receive the Work, except as to defects which may develop in the other separate contractor's work after the execution of the Contractor's Work.

1.6.4 Should the Contractor cause damage to the work or property of any separate contractor on the Project, the Contractor shall, upon due notice, settle with such other contractor by agreement, if both will so settle. If such separate contractor sues the County because of any damage alleged to have been so sustained, the Contractor agrees to indemnify and defend the County in such proceedings with the County retaining the right to select and hire independent counsel for the County paid by the Contractor.

1.6.5 Any cost caused by defective or ill-timed work shall be borne by the party responsible therefore.

1.7 COUNTY'S AUTHORIZED REPRESENTATIVE, INSPECTOR(S), & ARCHITECT

1.7.1 AUTHORIZED REPRESENTATIVE

The County shall designate a representative during the Work, who shall have the right to be present at the job site during construction and shall supervise any additional representatives appointed by the County.

1.7.2 INSPECTOR(S)

The Inspector(s) shall have the right to observe the installation of all materials and equipment to be incorporated into the Work and the placing of such material and equipment to determine in general if the Work is proceeding in accordance with the Contract Documents. The Inspector(s) is not authorized to make changes in the Contract Documents. On the basis of his observations, he shall keep the County informed as to the progress of the Work. The Inspector shall not be responsible for means, methods, techniques, sequences, or procedures of construction nor for safety precautions and programs in connection with the Work. Nor will the inspector be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

1.7.3 ARCHITECT

- a. If the County retains an Architect, the Architect will advise and consult with the County, and the County will issue instructions to the Contractor. The Architect will be requested to interpret the requirements of the Contract. When requested by the County, the Architect will, within a reasonable time, render such interpretations as he may deem necessary for the proper execution of the Work.
- b. The Architect will make periodic visits to the job site to familiarize himself generally with the progress and quality of the Work and to determine in general whether the work is proceeding in accordance with the Contract Documents. Based on such observations he will recommend approval of applications for progress payments made by Contractor. The Architect shall not be responsible for means, methods, techniques, sequences, or procedures of construction nor for safety precautions and programs in connection with the Work. Nor will the Architect be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

1.8 CONTRACT SCOPE

1.8.1 Upon receipt of a Work Order, the Contractor shall provide all management, work, materials, supplies, parts (to include system components), transportation, plant, supervision, labor, and equipment, except when specified as County furnished needed to repair, or remodel real property facilities at designated County locations. The Contractor shall provide quality assurance as specified in strict accordance with all terms, conditions, special contract requirements, specifications, attachments, and exhibits contained in this contract, or incorporated by reference. The Contractor shall also be responsible for site safety as well as site preparation and cleanup.

1.8.2 The Contractor's work and responsibility shall include all programming, administration, and management necessary to provide repair, remodel, and related services as ordered. The work shall be conducted by the

Contractor in strict accordance with the contract and all applicable laws, regulations, codes, or directives including Federal, State, and local. The Contractor shall insure that all work provided meets, or exceeds critical reliability rates or tolerances specified or included in applicable referenced documents.

Contractor shall perform the work such as supply, quality control, financial control, and maintain accurate and complete records files, libraries of documents to include Federal, State, and local regulations, codes, laws listed herein, and manufacturers' instructions and recommendations which are necessary and related to the work to be performed.

Contractor shall provide related services such as preparing and submitting required reports, maintaining record drawings current from activities under this contract, performing administrative work, and submitting necessary information as specified. The Contractor shall provide: materials lists to include trade names and brand names, and model materials lists to include trade names, brand names, model number, and ratings (if appropriate) for all materials necessary for a complete job.

- 1.8.3** All work will be ordered and funded when needed in accordance with the ordering clause and procedures contained in the Article 10 (Ordering Procedures).

ARTICLE 2 BONDS AND INSURANCE

2.1 BONDS

2.1.1 GENERAL REQUIREMENTS

a. Before commencing any Work under this Contract, the Contractor shall file four of each bond with the County. These bonds shall be in the amounts and for the purposes specified below. They shall be surety bonds issued by:

- (1) Either a California Admitted Surety OR a current Treasury Listed Surety (Federal Register).

And

- (2) Either a current A.M. Best A VIII rated Surety OR an admitted surety insurer which complies with the provisions of the Code of Civil Procedure, § 995.660.

b. Should any surety or sureties upon said bonds or any of them become insufficient, Contractor shall renew said bond or bonds with good and sufficient sureties within ten (10) calendar days after receiving notice from the County that the surety or sureties are insufficient. Cost of bonds shall be included in the Adjustment Factors.

c. Should the County increase the Work Order Amount, the Contractor shall submit additional bonds as necessary to cover the additional value of the Contract.

2.1.2 PERFORMANCE BOND

The successful bidder shall deliver to the County an executed Performance Bond on the attached form in an amount equal to 100% of the Work Order Amount as security for the faithful performance of the Contract.

2.1.3 PAYMENT BOND

The successful bidder shall deliver to the County an executed Payment Bond on the attached form in an amount equal to 100% of the Work Order Amount as security for the payment of all persons performing labor and furnishing materials in connection with the Work.

2.2 INSURANCE

2.2.1 GENERAL REQUIREMENTS

Before commencing this Work under the Contract, and without limiting or diminishing Contractor's obligation to indemnify and hold the County harmless, the Contractor shall procure and maintain, or cause to be maintained at its sole cost and expense, the following insurance coverages during the term of this Contract.

2.2.2 WORKERS' COMPENSATION INSURANCE

Contractor shall secure Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. Policy shall contain a Waiver of Subrogation in favor of the County of *Riverside*. Pursuant to Section 3700 of the Labor Code of the State of California, Contractor shall file with the County before commencing the Work the following signed certification:

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

2.2.3 COMMERCIAL GENERAL LIABILITY:

Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products/completed operations if applicable, personal and advertising injury – which may arise from or out of CONTRACTOR'S operations, use, and management of the premises, or the performance of its obligations hereunder. Policy shall name the County of *Riverside*, its Directors, Officers, special Districts, Board of Supervisors, employees, agents or representatives as Additional Insured, and contain a Waiver of Subrogation in favor of the County of *Riverside*. Policy limits shall not be less than \$1,000,000 per occurrence combined single limits. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall also contain coverage for \$5,000 Medical Payments coverage per accident, per person, and Fire Legal Liability in an amount not less than \$50,000.

2.2.4 VEHICLE LIABILITY:

If Contractor's vehicles or licensed mobile equipment are used on County property, or used in any manner on behalf of the County, Contractor shall maintain auto liability insurance for all owned, non-owned and hired automobiles in an amount not less than \$1,000,000 per occurrence combined single limit, \$2,000,000 in the aggregate. Policy shall name the County of *Riverside*, its Directors Officers, Special Districts, Board of Supervisors, employees, agents, or representatives as Additional Insured, and provide a Waiver of Subrogation in favor of the County of *Riverside*.

2.2.5 PROPERTY (PHYSICAL DAMAGE):

All-Risk property insurance coverage for the full replacement value of all Contractor's equipment, improvements/alterations, temporary structures, and systems (Care, Custody, and Control of Contractor) used on County property, or used in any way connected with the accomplishment of the Work performed in this contract.

2.2.6 COURSE OF CONSTRUCTION INSURANCE

Not Used.

2.2.7 GENERAL INSURANCE PROVISION – ALL LINES:

- a. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California unless waived, in writing, by the County Risk Manager. Carrier(s) shall have an A.M. BEST rating of not less than an A:VIII. Insurance deductibles or self-insured retentions must be declared by the carrier(s), and such deductibles and retentions shall have the prior written consent from the County Risk Manager. At the election of the Risk Manager, carriers shall provide written notification, and shall either 1) reduce or eliminate such deductibles or self-insured retentions, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses. If no written notice is received from the County Risk Manager within ten (10) days of the acceptance of agreement, then such deductibles or self-insured retentions shall be deemed acceptable.
- b. Cause its insurance carrier(s) to furnish the County of Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, or 2) if requested to do so in writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. The County of Riverside, its Director's and Officers, Special Districts, Board of Supervisors, elected officials, employees, agents or representatives are named as Additional Insureds. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that shall provide no less than thirty (30) days written notice be given to the County of Riverside prior to any material modification or cancellation of such insurance. In the event of a material modification or cancellation of coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverages set forth herein and the insurance required herein is in full force and effect. **Contractor shall not take possession, or use the Premises, or commence operations under this Agreement until the County of Riverside has been furnished original Certificate(s) of Insurance and certified original copies of Endorsements or policies of insurance including all Endorsements and any and all other attachments as required in this Section. The original Endorsements for each policy and the Certificate of Insurance shall be signed by an individual authorized by the insurance carrier to do so on its behalf.**
- c. It is understood and agreed to by the parties hereto and the insurance company(s), that the Certificate(s) of Insurance and policies shall so covenant and shall be construed as primary, and the COUNTY'S insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.

The County of Riverside's Reserved Rights-Insurance. The County of Riverside reserves the right to adjust the monetary limits of insurance coverage's during the term of this agreement or any extension thereof-if in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONTRACTOR becomes inadequate.

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- d. CONTRACTOR shall pass down the insurance obligations contained herein to all tiers of sub-consultants working under this Agreement.

2.3 INDEMNITY AND HOLD HARMLESS

- 2.3.1 Contractor agrees to and shall indemnify and hold the County, its officers, employees and agents free and harmless from any and all claims, actions, damages and liabilities of whatsoever kind and nature arising from death, personal injury, property damage or other cause asserted or, based upon any negligent act or omission of Contractor, its employees, agents, invitees, or any subcontractor of Contractor relating to or in any way

connected with the accomplishment of the work or performance of services under this Agreement, regardless of the existence or degree of fault or negligence on the part of the County or any officer or employee of said County, other than the sole active negligence or willful misconduct of County, its Directors and Officers, Special Districts, Board of Supervisors, elected officials, employees, agents or representatives. As part hereto of the foregoing indemnity Contractor agrees to protect and defend at its own expense, including attorneys' fees the County, its Directors and Officers, Special Districts, Board of Supervisors, elected officials, employees, agents or representatives from any and all legal action based upon any acts or omissions, as stated hereinabove, by any person or persons.

- 2.3.2 If any such claim, action, or proceeding is brought against County or County's officers, agents, employees, or independent contractors, Contractor, upon notice from County, shall defend the same at Contractor's expense by counsel satisfactory to County.
- 2.3.3 County shall promptly notify Contractor of any claim, action, or proceeding against County or County's officers, agent's employees, independent contractors, and consultants relating to the performance, or omission to perform, any term or condition of this Contract. County shall cooperate fully in the defense of such claim, action, or proceeding.
- 2.3.4 County shall not be liable or responsible for any accident, loss or damage occurring to the Work prior to the completion and Acceptance of same, unless otherwise specifically agreed to at the time of occupancy by the County.

ARTICLE 3 SITE CONDITIONS

3.1 DIFFERING SITE CONDITIONS

- 3.1.1 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by County. The Contractor shall promptly report in writing to County any errors, inconsistencies, or omissions in the Contract Documents or inconsistencies with applicable code requirements observed by Contractor.
- 3.1.2 If Contractor performs any construction activity which it knows or should know involves an error, inconsistency, or omission without notifying and obtaining the written consent of County, Contractor shall be responsible for the resultant losses, including, without limitation, the costs of correcting defective work.
- 3.1.3 The County will furnish surveys necessary to properly locate the property and establish the boundaries thereof with general reference points as well as to enable the Contractor to proceed with the Work.
- 3.1.4 The Contractor shall provide competent engineering services to lay out the Work and all parts thereof and to establish all grades and elevations in accordance with the Contract requirements. He shall verify the figures shown on the survey and approach drawings before undertaking any construction work and shall be responsible for the accuracy of the finished work.
- 3.1.5 The Contractor shall protect and preserve established bench marks and monuments and shall make no changes in locations without the written approval of the County. Any bench marks or monuments that are lost or destroyed shall be replaced by the Contractor subsequent to notification and approval from County.

3.2 DIMENSIONS AND MEASUREMENTS

- 3.2.1 All dimensions shown for existing conditions and all dimensions required for work that is to connect with work now in place, shall be verified and calculated by the Contractor by actual measurement of the existing work. Any discrepancies between the Contract Documents and the existing conditions shall be referred to the authorized representative of the County before any work affected thereby has been performed. Failure to notify the County before starting work will be considered acceptance by the Contractor. Where doubts as to

dimensions exist, County shall determine the correct dimensions.

ARTICLE 4 SPECIFICATIONS AND DRAWINGS

4.1 GENERAL PROVISIONS

4.1.1 SUBDIVISIONS

For convenience, the specifications are arranged into several sections, but such separation shall not be considered as the limits of the work required of any separate trade. The terms and conditions of such limitations are wholly between the Contractor and his subcontractors. Requirements contained in any section are required as if contained in all sections and are the responsibility of the Contractor. The Contractor, prior to awarding subcontracts, will assure the Work required as a whole has been coordinated among the subcontracts.

4.1.2 RECORD DOCUMENTS

- a. The Contractor shall keep on the Work site a copy of the awarded construction documents for the Work Order issued (including drawings, specifications and any additional Scope of Work) and shall at all times give the County and Architect access thereto.
- b. The Contractor will be given one copy of the Scope of Work for the Work Order which shall be kept at the site of the Work at all times and updated weekly. Payment may be withheld if drawings are not kept current. Exact locations of all pipes and conduits and all changes in construction and details shall be indicated and dimensions provided upon these Scope of Work, and all changes in materials and equipment installed shall be indicated in these specifications. Upon completion and prior to Acceptance of the Work, a final reproducible (transparencies) set of project record documents and specifications shall be submitted to the County by the Contractor. County will furnish a set of reproducibles.
- c. The working details will indicate dimensions, position, and kind of construction, and the specifications, qualities, and methods. Any Work indicated on the working details and not mentioned in the specifications, or vice versa, shall be furnished as though fully set forth in both. Work not particularly detailed, marked, or specified shall be the same as similar work that is detailed, marked, or specified.
- d. In case of discrepancy in the documents, the matter shall be promptly submitted to the County, who shall make a determination in writing. Any adjustment by the Contractor without such a determination shall be at its own risk and expense. The County shall furnish from time to time such detailed information as considered necessary to clarify the Work.
- e. Where the word "similar" occurs on the drawings, it shall have a general meaning and not be interpreted as meaning identical, and all details shall be worked out in relation to their location and their connection with other parts of the work.
- f. Standard details or specification drawings are applicable when listed, bound with specifications, noted on the drawings or referenced elsewhere in the specifications. Where the notes on the drawings indicate modifications, such modifications shall govern.
- g. All drawings, specifications and copies thereof furnished to the Contractor are the property of the County and shall not be used on other work without its consent. Upon completion of this project, all copies of the drawings and specifications shall be returned to the County.

4.2 SUMMARY OF THE ORDER OF THE PROCEDURE

4.2.1 In case of conflicts in these Contract Documents, the order of precedence shall be as follows:

- 1) Modifications or changes last in time are first in precedence.
- 2) Work Order
- 3) Addenda.
- 4) County-Contractor agreement.
- 5) General Conditions except for specific modifications thereto stated in the Supplementary Conditions.
- 6) Supplementary Conditions.
- 7) Division One Specifications.
- 8) Division Two through Sixteen Specifications.
- 9) Drawings - as between figured dimensions given on drawings and the scaled measurements, the figured dimension shall govern; as between large-scale drawings and small-scale drawings, the larger scale shall govern.
- 10) Structural drawings
- 11) Architectural drawings.
- 12) As between detailed drawings and typical details bound within the specifications, the detailed drawings govern.
- 13) In the event provisions of codes, safety orders, contract documents, referenced manufacturer's specifications or industry standards are in conflict, the more restrictive and higher quality shall govern.
- 14) Schedules shown on the drawings take precedence over conflicting information given on other drawings.
- 15) Mechanical drawings.
- 16) Electrical drawings.

4.3 CLARIFICATIONS/REQUEST FOR INFORMATION AND ADDITIONAL INSTRUCTIONS

4.3.1 NOTIFICATION BY CONTRACTOR

- a. Should Contractor discover what he perceives to be conflicts, omissions, or errors in the Contract Documents, or have any question concerning interpretation or clarification of the Contract Documents, or if it appears that the work to be done or any matters relative thereto are not sufficiently detailed or explained in the Contract Documents, then, before proceeding with the work affected, Contractor shall notify County's authorized representative in writing, and request interpretation, clarification, or additional detailed information concerning the work. The Contractor shall ask for the clarification (Request for Information) immediately upon discovery but no less than 5 calendar days prior to the start date of the activities related to the clarification, based on the latest updated version of the accepted Progress Schedule. County, whose decision shall be final and conclusive, shall resolve such questions and issue instructions to Contractor. Should Contractor proceed with work affected before receipt of instructions from County, Contractor shall remove and replace or adjust work which is not in accordance with the instructions from County and shall be responsible for resultant damage, defect or added cost. In event of failure to agree as to scope of Contract requirements, Contractor shall follow the procedure set forth in the DISPUTES article.
- b. The Contractor shall not be entitled to any compensation for delays, disruptions, inefficiencies or additional administrative effort caused by the Contractor's untimely review of the Contract Documents for potential conflicts, omissions, discrepancies or ambiguities.
- c. County may charge back to the Contractor, time and expense associated with RFI's, as may be reasonably determined by the County to be unnecessary.

4.3.2 ADDITIONAL DETAILED INSTRUCTIONS

- a. The County may furnish additional detailed written instructions on any Request for Information to further explain the Work. If in the opinion of Contractor, the additional detailed instructions constitute work in excess of the scope of the Work Order, he must submit written notice thereof immediately to the County, but no later than seven (7) calendar days following receipt of such instruction(s), and in any event prior to commencement of work thereon. The Contractor shall not be entitled to additional compensation due to any additional instructions unless the Contractor shall have given the appropriate written notice. County will then consider such notice and, if in its judgment it is justified, the County instructions will be revised or extra work shall be authorized by Change Order. In the event of a dispute hereunder, attention is directed to the DISPUTES article.

ARTICLE 5 SHOP DRAWINGS AND SUBMITTALS

5.1 SHOP DRAWINGS, PRODUCT DATA, COORDINATION DRAWINGS AND SCHEDULES

- 5.1.1 Shop drawings are drawings submitted to the County by the Contractor showing detail of the proposed fabrication and assembly of structural elements and the installation (i.e., form, fit, and attachment details) of materials or equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, fabrication, erection and setting drawings, manufacturers' scale drawings, wiring and control diagrams, cuts or entire catalogs, pamphlets, and performance and test data, and similar materials furnished by the Contractor to explain in detail specific portions of the Work required by the Contract. The County may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this Contract.
- 5.1.2 The Contractor shall coordinate all shop drawings and review them for accuracy, completeness, and compliance with Contract requirements, and shall indicate its approval thereon as evidence of such coordination and review. Shop drawings submitted to the County without evidence of the Contractor's approval shall be returned for resubmission. The Architect will indicate review for compliance of the shop drawings, and if not in compliance as submitted, shall indicate the reasons therefore. Any work done before such review shall be at the Contractor's risk. Review by the Architect shall not relieve the Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of this Contract, except with respect to variations described and approved in accordance with paragraph 5.1.3.
- 5.1.3 If shop drawings show any variations from the Contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Architect approves any such variation, no change in time or price will be allowed for Contractor changes. Should the Architect make changes on the shop drawings which affect time and/or cost, the Contractor will immediately notify the County with a Request for Information. If the Contractor fails to issue the Request for Information within seven (7) calendar days from receipt of the returned shop drawing, the Contractor shall have waived his right to any potential Change Order.
- 5.1.4 The Contractor shall submit shop drawings, coordination drawings, and schedules for review as required by the Contract Documents. The Contractor will provide a submittal schedule listing all shop drawings and submittals, the submission dates by the Contractor, and return dates from the Architect. This schedule will be provided fourteen (14) calendar days after the Notice to Proceed.
- 5.1.5 Shop drawings and schedules, other than catalogs, pamphlets, and similar printed material, shall be submitted with one reproducible plus one copy.
- 5.1.6 Each shop drawing or coordination drawing shall have a blank area 4 by 4 inches located adjacent to the title block. The title block shall display the following:

- 1) Number and title of drawing
- 2) Date of drawing or revision
- 3) Name of project building or facility
- 4) Name of Contractor and (if appropriate) name of subcontractor submitting drawings
- 5) Clear identity of contents and location on the work
- 6) Project title and project number
- 7) Submittal number

5.1.7 Unless otherwise provided in this Contract or otherwise directed by County, shop drawings, coordination drawings, and schedules shall be submitted to the Architect with a letter, sufficiently in advance of construction requirements to permit no less than ten (10) calendar days for checking and appropriate action.

5.2 SAMPLES

5.2.1 After the award of the Contract, the Contractor shall deliver samples required by the specifications or as directed by the County to the County for approval. The Contractor shall prepay any shipping charges. Any materials or equipment for which samples are required shall not be used in the Work until reviewed by County.

5.2.2 Each sample shall have a label indicating:

- 1) Name of project building or facility, project title, and project number.
- 2) Name of Contractor and, if appropriate, name of subcontractor.
- 3) Identification of material or equipment with specification requirement.
- 4) Place of origin.
- 5) Name of manufacturer and brand (if any).
- 6) Identify by specification section.

5.2.3 Samples of finished materials shall have additional markings that will identify them in reference to the finish schedules.

5.2.4 The Contractor shall mail a letter in triplicate under separate cover submitting each shipment of samples and containing the information required in paragraph 5.2.2. He shall enclose a copy of this letter with the shipment and send a copy to the County representative on the project. Approval of a sample shall be only for the characteristics or use named in such review and shall not be construed to change or modify any Contract requirement. Substitutions will not be permitted unless they are approved under paragraph 5.3.

5.2.5 Approved samples not destroyed in testing will be sent to the County. Approved samples of hardware in good condition will be marked for identification and may be used in the Work. Materials and equipment incorporated in the Work shall match the approved samples. Other samples not destroyed in testing or not approved will be returned to the Contractor at his expense if so requested at time of submission.

5.2.6 Failure of any material to pass the specified tests will be sufficient cause for refusal to consider any further samples of the same brand or make of that material or equipment under this Contract.

5.2.7 Samples of various materials or equipment delivered on the site or in place, may be taken by the County for testing. Samples failing to meet Contract requirements will automatically void previous approvals of the items tested. The Contractor shall replace such materials or equipment found not to have met Contract requirements, or there shall be a proper adjustment of the Contract price as determined by the County.

5.2.8 Unless otherwise specified, when tests are required, only one test of each sample proposed for use will be made at the expense of the County. Samples which do not meet specification requirements will be rejected. Requests for testing of additional samples by Contractor may be made by the County at the expense of the Contractor.

5.3 SUBSTITUTIONS

- 5.3.1** Wherever the name, or brand, or manufacturer of an article is specified in the Contract Documents, it is used as a measure of quality and utility or a standard. Except in those instances where the product is designated to match others presently in use, specifications calling for a designated material, product, thing or service by specific brand or trade name shall be deemed to be followed by the words "or equal" so that bidders may propose any equal material, product, thing or service in their bid. If the Contractor desires to use any other brand or manufacturer of equal quality and utility to that specified, he shall list definite particulars of that which he considers equivalent to the specified item in his bid. The Contractor shall have ten (10) days after the award of the Work Order for submission of data substantiating substitution of "equal" items. The County will then determine whether or not the proposed name brand or article is equal in quality and utility to that specified in the Contract Documents, and its written decision shall be final.
- 5.3.2** No proposal will be considered unless accompanied by complete information and descriptive data necessary to determine the equality of the offered materials, articles, or equipment. Samples shall be provided when requested by the County.
- 5.3.3** The burden of proof as to the comparative quality or suitability of the offered materials, articles, or equipment shall be upon the Contractor. The County shall be the sole judge as to such matters. In the event that the County rejects the use of such alternative materials, articles, or equipment, then one of the particular products designated by brand name in the specifications shall be furnished.
- 5.3.4** The County will examine Contractor's submittals with reasonable promptness. Return of the submittals to the Contractor shall not relieve the Contractor from responsibility for deviations and alternatives from the Contract Documents nor shall it relieve him from responsibility for errors in the submittals. A failure by the Contractor to identify, in his letter of transmittal, material deviations from the Contract Documents shall void the submittal and any action taken thereon by the County. When specifically requested by the County, the Contractor shall resubmit such shop drawing(s), descriptive data, and samples as may be required.
- 5.3.5** If any mechanical, electrical, structural, or design revisions are required for the proper installation and fit of alternative materials, articles, or equipment, or because of deviations from the Contract Documents, such changes shall not be made without the consent of the County's authorized representative, and shall be made without additional cost to the County, such costs, including the fees of the Architect, to be borne by the Contractor.

ARTICLE 6 SCHEDULES

6.1 CONSTRUCTION SCHEDULE

- 6.1.1** As part of the Proposal the Contractor shall submit a preliminary schedule. The preliminary schedule may be in any form the Contractor deems sufficient. The County will review and if the schedule is acceptable will approve the schedule. This schedule will be the basis for the construction schedule outlined in section 6.1.2 through 6.1.4 below.
- 6.1.2** The Contractor shall prepare and submit to the County a practicable schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the salient features of the work (including acquiring materials and equipment). The schedule shall be in the form of a CPM (critical path method) schedule if required by the County, of suitable scale to indicate appropriately the percentage of work scheduled for completion by any given date during the period. The scheduled completion date shall be the same as the contractual completion date, for the initial schedule and subsequent updates. Any proposed early completion date shall show the difference between that date and the contract completion date as Float, which shall belong to both the County and Contractor.

- 6.1.3 If, in the opinion of the County, the Contractor falls behind the approved schedule, the Contractor shall take steps necessary to improve its progress, without additional cost to the County. The Contractor shall submit any supplementary schedule or schedules in CPM form as the County deems necessary to demonstrate how the approved rate of progress will be regained.
- 6.1.4 All schedule updates must accurately reflect the as-built schedule. There shall be no change to the Critical Path without the County's written consent.

ARTICLE 7 ORDERING PROCEDURES

7.1 PROCEDURES:

- 7.1.1 The Work Order shall state the agreed upon requirements and fixed price of performance, the schedule for the work, and shall cite the funds allotted for payment of the work ordered and the item number, description, quantity, unit price and extended price (i.e. unit price times number of units) separated between prepriced and non-prepriced units and separated between regular and overtime efforts; applicable adjustment factors, and totaled to include the firm-fixed price for the order. Work Orders will be accomplished on an appropriate form which the Contractor shall sign a copy of evidencing acceptance of the order.

The County reserves the right to reject a Contractor proposal based on unjustifiable quantities, performance periods, inadequate documentation, or other inconsistencies on the Contractor's part. The Contractor has the obligation to confirm the quantities shown in the Contractor's proposals. The County has the right to require the Contractor to prove the quantities shown in the Proposal by providing sketches, drawings or plans as necessary. The County also reserves the right to not award an order if County's requirement is no longer valid. In these instances, the Contractor has no right of claim to recoup proposal expenses. The County may pursue continuing valid requirements where agreement was not reached with the Contractor by other means.

By submitting a signed Proposal to the Project Coordinator, the Contractor is agreeing to accomplish the work outlined in the RFP for that work. It is the Contractor's responsibility to include the necessary scope items in the Proposal prior to issuing it to the Project Coordinator. Errors and omissions in the proposal shall be the responsibility of the contractor.

7.2 Measurements To Be Verified

Before ordering any material or doing any work, the Contractor shall verify all measurements at the site of a Work Order, and shall be responsible for the correctness of same. No extra charge or compensation will be allowed on account of difference between actual dimensions and the measurements indicated in the RFP. Any difference which may be found shall be submitted to the Project Coordinator for consideration before proceeding with the work.

7.3 Caution to Contractors

The Contractor is cautioned in regard to Work Order Proposals to be issued hereunder that when the word approximate is used in conjunction with measurements, quantities, dimensions, etc., it is the Contractors' responsibility to verify any and all such items prior to submission of the proposal. Contractors are also cautioned that any Work Order awarded is for all services or work, as necessary, to repair, and remodel the facilities covered by the contract in accordance with all contract terms and conditions. It shall also be the duty and responsibility of the Contractor to manage, and conduct the required work in the most effective and efficient manner possible and meet or exceed minimum critical rates or standards. In addition the Contractor is cautioned that no claims for additional moneys will be entertained when such claim is based upon a contention the contract fails to mention a specific item or component of facility covered by contract and the work is required in the normal course of operations. For example, surfaced area repair statements may not mention culverts. However, culverts are a normal component of roads, streets, or erosion controls and are shown on plots or maps provided. As culverts are a normal component of the system, the Contractor shall be responsible for providing all necessary

repair, or replacement work or service.

ARTICLE 8 TIME, LIQUIDATED DAMAGES AND EXTENSIONS

8.1 TIME OF WORK

The Contractor shall commence work on this project immediately upon the date noted on the written Notice to Proceed and shall perform the work diligently to completion within the number of calendar days specified in the Work Order. Neither site access nor physical work shall be commenced before the Contract is fully executed, and bonds, insurance and the schedule are submitted as required by the Contract Documents. No work shall be done on Saturday, Sunday and holidays and no work shall be performed outside of normal working hours without the prior written consent of the County, unless required by these Specifications. See: Working Hours.

8.2 LIQUIDATED DAMAGES

If the Work is not completed within the time required, damage will be sustained by the County. It is and will be impracticable and extremely difficult to ascertain and determine actual damage which County will sustain by reason of such delay; and it is therefore agreed that Contractor will pay to County the sum noted in the schedule below for each and every day's delay in finishing the Work beyond the time prescribed. If the Contractor fails to pay such liquidated damages, the County may deduct the amount thereof from any money due or that may become due the Contractor under the Contract.

Project Size	Liquidated Damages
Under \$10,000	\$50/day
\$10,000 to 100,000	\$100/day
Over \$100,000	\$250/day

8.3 UNAVOIDABLE DELAYS

8.3.1 TIME EXTENSION

- a. The Contractor will be granted an extension of time for completion of the Work beyond that named in the Work Order, for delays which may result through causes beyond the control of the Contractor and which he could not have avoided by the exercise of care, prudence, foresight and diligence. The appropriate extension of time shall constitute full compensation. Costs associated with extended overhead will not be considered.
- b. If the Contractor is allowed extensions of time in which to complete the Work equal to the sum of all unavoidable delays, plus any adjustments of contract time due to contract change orders, during such extension of time liquidated damages shall not be charged to the Contractor.
- c. Unavoidable delays within the meaning of this section shall be those caused by Acts of God or of the public enemy, fire, epidemics, or strike. There will be no liquidated damages for delays as described within this paragraph.
- d. Delays in the performance of parts of the work which may in themselves be unavoidable, but do not necessarily prevent or delay the performance of critical activity(s) while the activity(s) is on the Critical Path, will not be considered as unavoidable delays within the meaning of the contract and shall not be the basis of a claim for delay.

8.3.2 WEATHER

Inclement weather shall not be a prima facie reason for granting a time extension. The Contractor shall make every effort to continue work under prevailing conditions. However, if the inclement weather prevents the Contractor from beginning at the usual starting time, or prevents the Contractor from proceeding with seventy-five percent (75%) of the normal labor and equipment force towards completion of the day's current Critical Path activities (shown on the most current, and accepted schedule update) for a period of at least five (5) hours, and the crew is dismissed as a result thereof, the County will designate such time as unavoidable delay and grant a one (1) calendar day, non-compensable, time extension.

8.3.3 NOTICE OF DELAYS

- a. Whenever the Contractor foresees any delay in the performance of a Critical Path work activity, and in any event immediately upon the occurrence of any delay which he regards as an unavoidable delay, the Contractor shall notify the County in writing of such delay and its cause, in order that the County may take immediate steps to prevent, if possible, the occurrence or continuance of the delay, and may determine whether the delay is to be considered avoidable or unavoidable, how long it continues, and to what extent the prosecution and completion of the work are to be delayed thereby.
- b. After the completion of any part or the whole of the Work, the County, in calculating the amount due the Contractor, will assume that any and all delays which have occurred have been avoidable delays, except such delays as shall have been called to the attention of the County at the time of their occurrence and found by the County to have been unavoidable as substantiated by a change order. The Contractor shall make no claims that any delay not called to the attention of the County at the time of its occurrence has been an unavoidable delay.

8.4 REQUEST FOR TIME EXTENSION

8.4.1 In the event the Contractor requests an extension of contract time for unavoidable delay, justification shall be submitted no later than seven (7) calendar days after the initial occurrence of any such delay. When requesting time for proposed change orders, the request(s) must be submitted with the proposed change order with full justification. If the Contractor fails to submit justification he shall waive his right to a time extension at a later date. Justification must be based on the currently accepted contract schedule as updated at the time of occurrence of delay or execution of work related to any change(s) in the scope of work. The justification must include a schedule, including, but not limited to, the following information:

- a. The duration to perform the activity relating to the change(s) in the work and the resources (manpower, equipment, material, etc.) required to perform these activities within the stated duration.
- b. Logical activity ties to the contract schedule for the proposed changes and/or delay showing the activity/activities in the schedule whose start or completion dates are affected by the change and/or delay.

8.4.2 The County, after receipt of such justification and supporting evidence, shall make its finding of fact. The County's decision shall be final and conclusive and the County will advise the Contractor in writing of such decision. If the County finds that the Contractor is entitled to any extension of Contract time, the County's determination as to the total number of days of extension shall be based upon the latest updated version of the approved contract schedule.

8.4.3 In the event the Contractor disagrees with the County's decision, the Contractor shall be required to submit a claim pursuant to the DISPUTE article.

ARTICLE 9 PERFORMANCE

9.1 SUPERVISION

- 9.1.1** Within seven (7) days after award of the Contract, the Contractor shall provide to the County an organization chart outlining key job personnel. The key personal shall include but not be limited to Project Managers, Estimators, Superintendents and Safety personnel. The Contractor may add personnel during the course of the Contract as needed, but those added people must be approve prior to assignment to this Contract. The Contractor will also provide a Letter of Authority or Corporate Resolution for the individual(s) authorized to sign documents on its behalf, i.e., payment requests, change orders, inspection reports, etc.
- 9.1.2** The Contractor shall employ, during the progress of the Work, a competent Project Superintendent and any necessary assistants, as approved by the County. The Project Superintendent shall not be changed except with the consent of the Authorized Representative of County, unless the Superintendent proves to be unsatisfactory to the Contractor or ceases to be in his employ. The County shall be notified immediately of any new Superintendent appointed to the Work and the Contractor shall submit qualifications for approval. The Superintendent shall represent the Contractor and all directions given to him shall be as binding as if given to the Contractor.
- 9.1.3** The County shall be supplied at all times with the name and telephone number of a person in charge of or responsible for the Work, who can be reached for emergency work twenty-four (24) hours a day, seven (7) days a week.

9.2 CONDUCT OF WORK

- 9.2.1** In connecting one kind of work with another, marring or damaging same will not be permitted and, in the event such occurs, shall be corrected by the Contractor at its cost prior to acceptance by the County. Should improper work of any trade be covered by another which results in damage or defects, the whole work affected shall be made good by the Contractor without expense to County.

9.3 PROTECTION OF WORK & PROPERTY

- 9.3.1** The Contractor shall continuously maintain adequate protection of the Work from damage and shall protect the County's property from injury or loss in connection with this Contract. He shall make good any such damage, injury, or loss, except what may be directly due to errors in the Contract Documents or caused by agents or employees of the County. He shall adequately protect adjacent property as provided by law and the Contract Documents.
- 9.3.2** The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the Work site which are not to be removed and which do not unreasonably interfere with the work required under this Contract.
- 9.3.3** The Contractor shall protect from damage all existing improvements and utilities at or near the Work site and on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. The Contractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this Contract or failure to exercise reasonable care in performing the Work. If the Contractor fails to repair the damage promptly, the County may have the necessary work performed and charge the cost to the Contractor.

9.4 CONTRACTOR'S RESPONSIBILITY FOR WORK

- 9.4.1** Until Acceptance of the Work by the County, Contractor shall have the charge and care thereof and shall bear risk of injury or damage to any part of the Work by action of the elements. If a separate Contractor sues the

Owner, on account of any loss so sustained, the County shall notify the Contractor, who shall indemnify and hold harmless the County against any expenses, or judgment arising therefrom.

9.4.2 Contractor, at its cost, shall rebuild, repair, restore and make good all damages from the elements to any portion of the Work occasioned by such causes before its Acceptance.

9.4.3 No advertising of any description will be permitted in or about the Work, except by order of the County.

9.4.4 Contractor shall not create or permit the continued existence of any nuisance in or about the Work.

9.5 UTILITIES

9.5.1 Unless otherwise provided for under separate sections herein, Contractor will arrange all water, gas, and electricity required for construction purposes until acceptance of the Work. Contractor shall pay for such services unless otherwise specifically noted.

9.5.2 Utilities shall not be interrupted except with the approval of the County. A two (2) work day written notice is required prior to any and all interruptions. Interruptions shall be scheduled so as to minimize duration and disruption to existing operations.

- a. The Contractor shall send notices, make all necessary arrangements, and perform all other services required in the care and maintenance of all public utilities.
- b. Enclosing or boxing in, for protection of any public utility equipment, shall be done by the Contractor. Upon completion of the Work, the Contractor shall remove all enclosures, and leave in a finished condition.
- c. All connections to public utilities shall be made and maintained in a manner so as not to interfere with the continuing use of same by the County during the entire progress of the Work.

9.6 WORKING HOURS

9.6.1 All work shall be performed on a calendar day basis during the customary working hours of the trades involved unless otherwise specified in this Contract. Work performed by the Contractor of his own volition outside such established working hours shall be at no additional expense to the County and without County approval.

9.6.2 It is expressly stipulated that no laborer, workman, or mechanic employed at any time by the Contractor or by any subcontractor(s) under this Contract upon the Work or any part thereof, shall be required or permitted to work thereon more than eight (8) hours during any one calendar day and forty (40) hours during any one calendar week, except, as provided by Section 1815 of the California Labor Code. It is further expressly stipulated that for each and every violation of Sections 1811-1815, inclusive, of the California Labor Code, all the provisions of which are deemed to be incorporated herein, said contractor shall forfeit, as a penalty to County, twenty-five dollars (\$25.00) for each laborer, workman, or mechanic employed in the execution of this Contract by contractor for each calendar day during which said laborer, workman, or mechanic is required or permitted to work more than eight hours in any one calendar day and forty hours in any one calendar week in violation of the provisions of said Sections of the Labor Code.

9.6.3 The Contractor, and each subcontractor, shall keep an accurate record showing the names of and actual hours worked each calendar day and each calendar week by all laborers, workmen, and mechanics employed by them in connection with the Work contemplated by this Contract, which record shall be open at all reasonable hours to the inspection of the County or its officers or agents and to the Division of Labor Standards Enforcement of the Department of Industrial Relations.

- 9.6.4 No construction work shall be done on Saturdays, Sundays or County holidays and no work shall be performed outside of normal working hours without the prior written consent of the County. In any event, all work shall be subject to approval of the County. Prior to start of such work, the Contractor shall arrange with the County for the continuous or periodic inspection of the Work and testing of materials, when necessary. If requests are made by the Contractor for permission to work overtime, nights, Saturdays, Sundays or County holidays, and such requests are granted, the Contractor shall bear all extra expense to the County for inspection and other incidental expenses caused by such overtime work. If contractors are requested, in the interest of the County, to work overtime by the County, or if overtime work is specifically required by these specifications, all extra expense of inspection will be paid by the County.

9.7 MATERIAL & EQUIPMENT

- 9.7.1 Materials, equipment, and articles incorporated into the Work shall be new and of equal quality to the types and grades specified. When not particularly specified, the Contractor shall submit for approval satisfactory evidence as to the kind and quality of material. See SUBSTITUTION provision 5.3 concerning "or equal" requirements and procedure for submitting alternative material, articles, or equipment.
- 9.7.2 All materials shall be delivered so as to insure a speedy and uninterrupted progress of the Work. All materials shall be stored so as to cause no obstruction and so as to prevent overloading of any portion of the structure on the Work site, and the Contractor shall be entirely responsible for damage or loss by weather, theft, vandalism, or other cause.
- 9.7.3 Materials shall be stored to assure the preservation of their quality and fitness for the Work. Stored materials shall be reasonably accessible for inspection. When considered necessary by the County, stored materials shall be placed on wooden platforms or on other hard, clean surfaces and not directly on the ground, and shall be placed under cover when so directed.

9.8 LAYOUT OF WORK

- 9.8.1 The Contractor shall lay out its work from established base lines and bench marks indicated as part of the Work Order, and shall be responsible for all measurements in connection with the layout. The Contractor shall furnish, at its own expense, all stakes, templates, platforms, equipment, tools, material, and labor required to lay out any part of the Work. The Contractor shall be responsible for executing the Work to the lines and grades that may be established or indicated in the Work Order. The Contractor shall also be responsible for maintaining and preserving all stakes and other marks established by the County until authorized to remove them. If such marks are destroyed by the Contractor before their removal is authorized, the County may replace them and deduct the expense of the replacement from any amounts due or to become due to the Contractor.

9.9 USE OF PREMISES

- 9.9.1 The Contractor shall maintain the entire premises under his control in an orderly condition. He shall store his apparatus, materials, supplies and equipment in such a manner as will not interfere with the progress of his work or the work of other contractors.

9.10 OPERATIONS & STORAGE

- 9.10.1 The Contractor shall confine all operations (including storage of materials) on County premises to areas authorized or approved by the County.
- 9.10.2 Temporary buildings (e.g., storage sheds, shops, offices) and utilities may be erected by the Contractor only with the approval of the County and shall be built with labor and materials furnished by the Contractor without expense to the County. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at his expense upon completion of the work.

9.10.3 The Contractor shall, under regulations prescribed by the authority having jurisdiction, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the authority having jurisdiction. When materials are transported in performance of the Work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State, or County regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair, or pay for the repair, of any damaged curbs, sidewalks, or roads.

9.11 HEAT/POWER/LIGHT

9.11.1 Unless otherwise specified or already provided by the County, the Contractor shall:

- a. Provide heat, as necessary to protect all work, materials, and equipment against injury from dampness and cold;
- b. Provide heat as necessary in the area where work is to be done to provide the minimum temperature recommended by the supplier or manufacturer of the material;
- c. Provide electric power and light as required for performance of the Work.

9.12 CLEANING UP

9.12.1 The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. Before completing the Work, the Contractor shall remove from the work and premises any weeds, rubbish, tools, scaffolding, equipment, and materials that are not the property of the County. Upon completing the Work, the Contractor shall leave the work area in a clean, neat, and orderly condition satisfactory to the County.

ARTICLE 10 SAFETY & HEALTH

10.1 ACCIDENT PREVENTION

10.1.1 In performing this Contract, the Contractor shall provide for protecting the lives and health of employees and other persons; preventing damage to property, materials, supplies, and equipment; and avoiding work interruptions. For these purposes, the Contractor shall:

- a. Provide a copy of its safety program;
- b. Provide appropriate safety barricades, signs, and signal lights;
- c. Comply with standards issued by the U.S. Government, State, County and City, and other governing agencies having jurisdiction;
- d. Ensure that any additional measures the County determines to be reasonably necessary for this purpose are taken.

10.1.2 The Contractor shall maintain an accurate record of exposure data on all accidents incident to work performed under this Contract resulting in death, traumatic injury, occupational disease, or damage to property, materials, supplies, or equipment. The Contractor shall report this data in the manner prescribed by the County.

10.1.3 Before beginning excavation for a trench 5 feet or more in depth, Contractor shall provide evidence of having obtained a permit from the authority having jurisdiction.

10.1.4 Nothing herein shall be deemed to allow use of shoring, sloping, or protective systems less effective than those

required by the Construction Safety Orders of the California Division of Industrial Safety.

10.2 SANITARY FACILITIES

- 10.2.1** Contractor shall supply and maintain at its expense such toilets and other sanitary facilities including those which are accessible by the disabled as per ADA and Title 24 requirements necessary for use by visitors and workers employed at the job site. Such facilities shall be approved by the County.

10.3 RESPONSIBILITY FOR COMPLIANCE WITH CAL-OSHA

- 10.3.1** All work, materials, work safety procedures and equipment shall be in full accordance with the latest Cal-OSHA rules and regulations.
- 10.3.2** Contractor warrants that he and each of his subcontractors shall, in performance of this Contract, comply with each and every compliance order issued pursuant to Cal-OSHA. The Contractor assumes full and total responsibility for compliance with Cal-OSHA standards by his subcontractors as well as himself. The cost of complying with any order and/or payment of any penalty assessed pursuant to Cal-OSHA shall be borne by the Contractor. Nothing contained therein shall be deemed to prevent the Contractor and his subcontractors from otherwise allocating between themselves responsibility for compliance with Cal-OSHA requirements; provided, however, that the Contractor shall not thereby, in any manner whatsoever, be relieved of his responsibility to the County as herein set forth.

10.4 TOXIC AND HAZARDOUS MATERIALS AND WASTE

10.4.1 ASBESTOS

Operations which may cause release of asbestos fibers into the atmosphere shall meet the requirements of Title 8 CCR General Industrial Safety Orders, Section 5208 and California law. Some operations which may cause such concentrations include sanding, grinding, abrasive blasting, sawing, drilling, shoveling, or otherwise handling materials containing asbestos so that dust will be raised.

10.4.2 TOXIC MATERIALS

Operations which release toxic materials into the atmosphere shall meet the requirements of Title 8 CCR, General Industrial Safety Orders. Some operations which may release such materials include use of adhesives, sealants, paint, and other coatings.

10.4.3 LEAD-BASED PAINT

Lead-based paint is prohibited. Lead-based paint is defined as:

- a. Any paint containing more than five-tenths of one percentum lead by weight (calculated as lead metal in the total non-volatile content of the paint) or the equivalent measure of lead in the dried film of paint applied or both; or
- b. For paint manufactured after June 22, 1977, any paint containing more than six one-hundredths of one percentum lead by weight (calculated as lead metal) in the total content of the paint or the equivalent measure of lead in the dried film of paint already applied.

10.4.4 HAULING AND DISPOSAL

All hauling and disposal shall meet requirements of Title 22 CCR, Division 4. Chapter 30, "Minimum Standards for Management of Hazardous and Extremely Hazardous Wastes."

10.4.5 ASBESTOS PROHIBITED

No products or materials containing asbestos shall be incorporated into the Work without the prior written approval of the County.

ARTICLE 11 COUNTY-FURNISHED PROPERTY

11.1 COUNTY-FURNISHED PROPERTY

- 11.1.1 The County may furnish to the Contractor property as identified in the Work Order to be incorporated or installed into the Work or used in performing the Contract. The listed property will be furnished f.o.b. railroad cars at the place specified in the Contract or f.o.b. truck at the project site. The Contractor is required to accept delivery. When the property is delivered, the Contractor shall verify its quantity and condition and acknowledge receipt in writing to the County within twenty-four (24) hours of delivery, also specifying any damage to or shortage of the property as received. All such property shall be installed or incorporated into the Work at the expense of the Contractor, unless otherwise indicated in this Contract.
- 11.1.2 Each item of property to be furnished under this clause shall be identified by the County in a schedule by quantity, item, and description. Schedule form will be provided by the County.
- 11.1.3 The Contractor shall be held responsible for all material delivered to him and deductions will be made from any moneys due him to make good any shortages and deficiencies, from any cause whatsoever, which may occur after such delivery.
- 11.1.4 The Contractor shall set up accounting records and establish an inspection procedure as approved by the County.

ARTICLE 12 BENEFICIAL OCCUPANCY

12.1 BENEFICIAL OCCUPANCY

- 12.1.1 The County shall have the right to take possession of or use any completed or partially completed portion of the Work. The County's possession or use shall not be deemed an acceptance of any Work under the Contract. The Contractor will continue to pay for any portion of the utilities which he is using.
- 12.1.2 While the County has such possession or use, the Contractor shall be relieved of the responsibility for the loss of or damage to that portion of the Work resulting from the County's possession or use. If Contractor believes the partial possession or use by the County will delay the progress of the Work or will cause additional expense to the Contractor, Contractor shall immediately submit a written request for an equitable adjustment in the Work Order price or the time of completion. County will then consider such request and, if in its judgment it is justified, the County will modify the contract in writing accordingly. In the event the Contractor disagrees with the County's decision, the Contractor shall be required to submit a claim pursuant to the DISPUTE article.

ARTICLE 13 INSPECTION AND TESTING

13.1 INSPECTION AND TESTING

- 13.1.1 The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work called for by this Contract conforms to contract requirements. The Contractor shall maintain complete inspection records and make them available to the County. The County shall at all times have access to the Work, and the Contractor shall provide proper facilities for such access and for inspection.
- 13.1.2 County inspections and tests are for the sole benefit of the County and do not:

- a. Relieve the Contractor of responsibility for providing adequate quality control measures;
 - b. Relieve the Contractor of responsibility for damage to or loss of the material before Acceptance;
 - c. Constitute or imply Acceptance; or
 - d. Affect the continuing rights of the County after Acceptance regarding latent defects, gross mistakes, fraud or the County's rights under any warranty or guarantee.
- 13.1.3** The presence or absence of a County inspector does not relieve the Contractor from any Contract requirement, nor is the inspector authorized to change any term or condition of the specifications without the County's written authorization.
- 13.1.4** The Contractor shall promptly furnish, without additional charge, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by the County. The County may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes reinspection or retest necessary. Special, full size, and performance tests shall be performed as described in the Work Order.
- 13.1.5** The Contractor shall, without charge, replace or correct work found by the County not to conform to contract requirements, unless in the public interest the County consents to accept the work with an appropriate adjustment in Work Order price. The Contractor shall promptly segregate and remove rejected material from the premises.
- 13.1.6** If, before Acceptance of the Work, the County decides to examine already completed work by removing it or tearing it out, the Contractor, on request, shall promptly furnish all necessary facilities, labor, and material. If the work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray the expenses of the examination and of satisfactory reconstruction. However, if the work is found to meet Contract requirements, the County shall issue a new Work Order for such removal and reinstallation.
- 13.1.7** The Contractor shall at all times maintain proper facilities and provide safe access for inspection by the County to all parts of the work, and to the shops wherein the work is in preparation. Where the specifications require work to be specially tested or approved, it shall not be tested or covered up without timely notice to the County of its readiness for inspection and without the approval or consent of County. Should any such work be covered up without such notice, approval, or consent, it must, if required by County, be uncovered for examination at the Contractor's expense.
- 13.1.8** The Contractor shall notify the County at least one (1) work day in advance of the time scheduled for the inspection. Should the Contractor fail to notify the County and proceed with work requiring inspection, all such work is rejected, and no further work shall be done on that portion of the project until the rejected work is accepted by the County. Should the Contractor request acceptance of such rejected work the County shall, at the Contractor's expense, secure the services of private material testing laboratories, consulting engineers or licensed land surveyors, who shall certify that said work does in fact conform to the requirements of the Contract Documents. The work previously rejected shall be accepted by the County after receipt of such certification if the County approves of such certification.
- 13.1.9** If the Contractor does not promptly replace or correct rejected work, the County may (1) by contract or otherwise, replace or correct the work and charge the cost to the Contractor or (2) terminate for default the Contractor's right to proceed.
- 13.1.10** Construction review of the Contractor's performance by the County is not intended to include the review of the

adequacy of the Contractor's safety measures, in, on, or near the construction site.

- 13.1.11 The County will pay for initial testing services specified to be performed by the County. When initial tests indicate non-compliance with the Contract Documents, subsequent retesting occasioned by the non-compliance shall be performed by the same testing agency, and costs thereof will be deducted by the County from the Contract sum.

13.2 INSPECTION BY OTHER JURISDICTIONS

Whenever any part of the Work to be performed is under the jurisdiction or control of another public entity, including but not limited to: The United States Government, State of California, or City, such work shall be subject to inspection by the officials of such entities and it must pass inspection, in addition to County inspection, and such other inspections as may otherwise be provided for in the Contract Documents.

13.3 FINAL INSPECTION AND TESTS

The Contractor shall give the County at least ten (10) calendar days advance written notice of the date the Work will be fully completed and ready for final inspection and tests. Final inspection and tests will be started within ten (10) calendar days from the date specified in the aforementioned notice unless the County determines that the Work is not ready for final inspection and so informs the Contractor.

ARTICLE 14 ACCEPTANCE

14.1 ACCEPTANCE OF THE WORK

- 14.1.1 After the final inspection by County and all the contract documentation for the Work Order has been received, it will be recommended to the County Board of Supervisors to accept the Work and file a Notice of Completion. Upon approval of the Notice of Completion, a copy will be sent to the Contractor (see final payment clause) and recorded in the office of the County Recorder. Upon Acceptance of the Work, Contractor will be relieved of the duty of maintaining and protecting the Work. Neither determination by the County that the Work is complete, nor Acceptance thereof, shall operate as a bar to County's claim against Contractor pursuant to Contractor's warranty and guarantees.
- 14.1.2 Partial payments shall not be construed as acceptance of any part of the Work.
- 14.1.3 In judging the Work, no allowance for deviations from the drawings and specifications will be made, unless already approved in writing at the time and in the manner as called for herein.
- 14.1.4 County shall be given adequate opportunity to make any necessary arrangements for fire insurance and extended coverage.
- 14.1.5 The Acceptance of the Work will not be recommended until all requirements of the Contract Documents are complete and approved by the County. This shall include, but is not limited to, all construction, guarantee forms, parts lists, schedules, tests, operating instructions, as-built drawings, and all other documentation identified by the Contract Documents.

ARTICLE 15 WARRANTY AND GUARANTEES

15.1 CONTRACTOR'S WARRANTY AND GUARANTEE

- 15.1.1 Contractor warrants that all materials and equipment furnished under this Contract shall be new unless otherwise specified, and that all Work performed under this Contract conforms to the Contract requirements and is free of any defect whether performed by the Contractor or any subcontractor or supplier.

- 15.1.2 This warranty shall continue for a period of one (1) year from the date of filing of Notice of Completion for the Work Order. The Performance Bond shall remain in force during the warranty period.
- 15.1.3 The Contractor shall remedy at the Contractor's expense any damage to County-owned or controlled real or personal property, when that damage is the result of:
- a. The Contractor's failure to conform to Contract requirements or
 - b. Any defect of equipment, material, workmanship, or design furnished by the Contractor.
- 15.1.4 The Contractor shall restore any work damaged in fulfilling the terms and conditions of this Article. The Contractor's warranty with respect to work repaired or replaced will run for one (1) year from the date of repair or replacement.
- 15.1.5 The County shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage. The Contractor shall within ten (10) calendar days after being notified in writing by the County of any work not in accordance with the requirements of the Contract or any defects in the Work, commence, and perform with due diligence, all work necessary to fulfill the terms of this Article. If the Contractor fails to remedy any defect, or damage within fourteen (14) calendar days after receipt of notice, the County shall have the right to replace, repair, or otherwise remedy the defect, or damage at the Contractor's expense. Payment due to the Architect from the County for extra architectural services required in the enforcement of Contractor's guarantee after Acceptance of the Work shall be paid to the County by the Contractor.
- 15.1.6 In the event of any emergency constituting an immediate hazard to health or safety of County employees, property, or licensees, when caused by work of the Contractor that is not in accordance with the Contract requirements, the County may undertake at Contractor's expense and without prior notice, all work necessary to correct such hazardous condition(s).
- 15.1.7. With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this Contract, the Contractor shall:
- a. Obtain all warranties that would be given in normal commercial practice;
 - b. Require all warranties to be executed, in writing, for the benefit of the County, unless directed otherwise by the County; and
 - c. Enforce all warranties for the benefit of the County, unless otherwise directed by the County.
- 15.1.8 This warranty shall not limit the County's rights under the Inspection and Acceptance section(s) of this Contract with respect to latent defects, gross mistakes, or fraud.

ARTICLE 16 ENVIRONMENTAL PROTECTION

16.1 DUST CONTROL

- 16.1.1 The Contractor shall provide any and all dust control required.
- 16.1.2 Whenever the Contractor is negligent in providing dust control, the County shall order the Contractor to provide such dust control. If the Contractor does not comply promptly with such order, the County shall have the authority to provide such dust control and charge the Contractor therefore by deducting the cost from progress payments to the Contractor as such costs are incurred by the County. The County shall not be held responsible for schedule delays due to actions taken by County to mitigate the failure of the Contractor in providing dust control.

16.2 EXCESSIVE NOISE

- 16.2.1** The Contractor shall use only such equipment on the Work and in such state of repair that the emission of sound therefrom is within the noise tolerance level of that equipment as established by CAL-OSHA.
- 16.2.2** Should the County determine that the muffling device on any equipment used on the Work is ineffective or defective so that the noise tolerance of such equipment is exceeded, such equipment shall not, after such determination by the County, be used on the Work until its muffling device is repaired or replaced so as to bring the noise tolerance level of such equipment within such standards.

16.3 POLLUTION CONTROL, CLEANING

- 16.3.1** The Contractor shall not, in connection with the Work, discharge any smoke, dust, or other contaminants into the atmosphere which are in violation of South Coast Air Quality Management District standards or discharge any fluids or materials into any lake, river, stream, or channel as will violate regulations of State of California Water Resources Board. The Contractor shall control accumulation of waste materials and rubbish and dispose of waste materials and rubbish off-site at a minimum of weekly intervals. Burning of materials is not permitted.

ARTICLE 17 EMPLOYMENT PRACTICES

17.1 QUALIFICATIONS FOR EMPLOYMENT AND APPRENTICESHIP STANDARDS

- 17.1.1** In accordance with Section 1735 of the California Labor Code, no person under the age of 16 years and no person currently serving sentence in a penal or correctional institution shall be employed to perform any Work under this Contract. No person whose age or physical condition is such as to make his employment dangerous to his health or safety or to the health or safety of others shall be employed to perform Work under this Contract; provided that this requirement shall not operate against any physically handicapped persons otherwise employable where such persons may be safely assigned to Work which they ably perform.
- 17.1.2** This contract is subject to the provisions of Sections 1777.5 and 1777.6 of the California Labor Code concerning the employment of apprentices by the Contractor or any subcontractor under him. Section 1777.5 as amended, requires the Contractor or subcontractor employing tradesmen in any apprenticeable occupation to apply to the Joint Apprenticeship Committee nearest the site of this project and which administers the apprenticeship program in that trade for a certificate of approval. The certificate will also fix the ratio of apprentices to journeymen that will be used in the performance of the Contract.
- 17.1.3** The Contractor is required to make contributions to funds established for the administration of apprenticeship programs if he employs registered apprentices or journeymen in any apprenticeable trade on such contracts and if other contractors on the public works site are making contributions.
- 17.1.4** All employees engaged in work on the project under this Contract shall have the right to organize and bargain collectively through representatives of their own choosing, and such employees shall be free from interference, restraint, and coercion of employers in the designation of such employees for the purpose of collective bargaining or other mutual aid or protection, and no person seeking employment under this Contract shall be required as a condition of initial or continued employment to join any company, union, or to refrain from joining, organizing, or assisting a labor organization of such person's own choosing. No person in the employment of the County shall be employed by this contractor.

17.2 WAGES & RECORDS

17.2.1 WAGE RATES

- a. Pursuant to Section 1770 and 1773 et seq. of the Labor Code of the State of California, the

Director of Industrial Relations has ascertained the general prevailing rate of per diem wages and the rates for overtime and holiday work in the locality in which the work is to be performed for each craft, classification, or type of workman needed to execute the contract which will be awarded to the successful bidder, copies of which are on file and available upon request at the Clerk of the Board, Board of Supervisors, 4080 Lemon St., 14th Floor, Riverside, CA 92501-3655, and shall be posted at the job site.

- b. It shall be mandatory upon the Contractor and upon any subcontractor under him, to pay not less than the said specified rates to all laborers, workmen, and mechanics employed in the execution of the Contract. It is further expressly stipulated that the Contractor shall, as a penalty to County, forfeit twenty-five dollars (\$25.00) for each calendar day, or portion thereof, for each laborer, workman, or mechanic paid less than the stipulated prevailing rates for any work done under this Contract by him or by any subcontractor under him; and Contractor agrees to comply with all provisions of Section 1770 et. seq. of the Labor Code.
- c. In case it becomes necessary for the Contractor or any sub-contractor to employ on the project under this Contract any person in a trade or occupation (except executives, supervisory, administrative, clerical, or other non-manual workers as such) for which no minimum wage rate is herein specified, the Contractor shall immediately notify the County who will promptly thereafter determine the prevailing rate for such additional trade or occupation and shall furnish the Contractor with the minimum rate based thereon. The minimum rate thus furnished shall be applicable as a minimum for such trade or occupation from the time of the initial employment of the person affected and during the continuance of such employment.
- d. The County will not recognize any claim for additional compensation because of the payment by the Contractor of any wage rate in excess of the prevailing wage rate set forth as provided herein. The possibility of wage increases is one of the elements to be considered by the Contractor in determining his bid, and will not under any circumstances be considered as the basis of a claim against the County on the Contract.

17.2.2 WAGE RECORDS

- a. The Contractor and each subcontractor shall keep or cause to be kept an accurate record (certified payroll) showing the names and occupations of all laborers, workers, and mechanics employed by him in connection with the execution of this Contract or any subcontract thereunder. The record shall show the actual per diem wages paid to each of said workers, which records shall be provided to the County, and to the Division of Labor Standards Enforcement upon its request. Copies provided will include one which has the name and social security numbers marked out.

17.3 NOTICE OF LABOR DISPUTES

- 17.3.1 If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this Contract, the Contractor shall immediately give notice, including all relevant information, to the County.
- 17.3.2 The Contractor agrees to insert the substance of this clause, including this paragraph into any subcontract in which a labor dispute may delay the timely performance of this Contract; except that each subcontract shall provide that in the event its timely performance is delayed or threatened by delay by any actual or potential labor dispute, the subcontractor shall immediately notify the next higher tier subcontractor or the prime Contractor, as the case may be, of all relevant information concerning the dispute.

17.4 NONDISCRIMINATION

17.4.1 EQUAL EMPLOYMENT OPPORTUNITY

- a. Contractor agrees for the duration of this Contract that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, political affiliation, marital status, or handicap. The Contractor will take affirmative action to insure that employees are treated during employment or training without regard to their race, color, religion, sex, national origin, age, political affiliation, marital status, or handicap. 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.
- b. 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, national origin, age, political affiliation, marital status, or handicap.
- c. The Contractor will send to each labor union or other representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising the workers' representative of the Contractor commitments under this agreement.
- d. The Contractor agrees that it will comply with the provisions of Titles VI and VII of the Civil Rights Act, Revenue Sharing Act Title 31, U.S. Code Section 2716, and California Government Code Section 12990.
- e. The Contractor agrees that it will assist and cooperate with the County, the State of California and the United States Government in obtaining compliance with the equal opportunity clause, rules, regulations, and relevant orders of the State of California and United States Government issued pursuant to the Acts.
- f. In the event of the Contractor's non-compliance with the discrimination clause, the affirmative action plan 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 by the County.

17.4.2 HANDICAPPED NON-DISCRIMINATION

This project is subject to Section 504 of the Rehabilitation Act of 1973 as amended, (29 U.S.C. 794), and the Americans with Disabilities Act of 1990, as amended, and all requirements imposed by the guidelines and interpretations issued thereto. In this regard, the County and all of its contractors and subcontractors will take all reasonable steps to ensure that handicapped individuals have the maximum opportunity for the same level of aid, benefit or service as any other individual.

17.4.3 FAIR EMPLOYMENT AND HOUSING ACT ADDENDUM

In the performance of this Contract, the Contractor will not discriminate against any employee or Applicant for employment because of race, sex, color, religion, ancestry, 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, sex, color, religion, ancestry, or national origin. Such action shall include, but not limited to, the following: employment, upgrading, emotion, 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 shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the State or local agency setting forth the provisions of this Fair Employment and Housing Section.

17.4.4 ACCESS TO RECORDS

The Contractor will permit access to his records of employment, employment advertisements, application forms, and other pertinent data and records by the State Fair Employment and Housing Commission, or any other agency of the State of California designated by the awarding authority, for the purposes of investigation to ascertain compliance with the Fair Employment and Housing section of this Contract.

17.4.5 REMEDIES FOR WILLFUL VIOLATION

The State or local agency may determine a willful violation of the Fair Employment and Housing provision to have occurred upon receipt of a final judgment having that effect from a court in an action to which Contractor was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that the Contractor has violated the Fair Employment and Housing Act and has issued an order or obtained an injunction under Government Code Sections 12900, et seq.

ARTICLE 18 SUBCONTRACTING

18.1 SUBCONTRACTORS

18.1.1 A subcontractor is an individual, firm or corporation having a direct contract with the Contractor or with any other subcontractor for the performance of a part of the Work. In accordance with Section 4104 of the Public Contract Code, each Contractor, as part of his Proposal, shall include the name and location of each subcontractor who will perform work or labor, or render services to the Contractor in or about the Work in an amount in excess of one half of 1% of the Work Order Amount.

18.1.2 The County reserves the right to approve all subcontractors. Such approval shall be a consideration to the awarding of the Work Order and unless notification to the contrary is given to the Contractor prior approval of the Work Order, the list of subcontractors which is submitted with his proposal will be deemed to be acceptable.

18.1.3 The Contractor shall be as fully responsible to the County for the acts and omissions of his subcontractors and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.

18.1.4 Nothing contained in the Contract Documents shall create any contractual relationship between any subcontractor and the County.

18.1.5 The divisions or sections of the specifications are not intended to control the Contractor in dividing the Work among subcontractors or to limit the work performed by any trade.

18.2 RELATIONS OF CONTRACTOR AND SUBCONTRACTOR

18.2.1 The Contractor agrees to bind every subcontractor by the terms of the Contract with the County, the General Conditions, Supplementary Conditions, and the Contract Documents as far as applicable to his work, unless specifically noted to the contrary in a subcontract approved in writing as adequate by the County.

18.3 SUBCONTRACTS

18.3.1 Pursuant to the provisions of Sections 4100 to 4114 of the California Public Contract Code, inclusive, the

Contractor shall not, without the consent of the County, either:

- a. Substitute any persons as subcontractors in place of the subcontractors designated in his Proposal without the consent of County. (The County's consent can only be given in cases permitted by Public Contract Code Section 4107.)
- b. Permit any subcontract to be assigned or transferred or allow any work to be performed by anyone other than the original subcontractor listed in his Proposal.
- c. Sublet or subcontract any portion of the work in excess of one-half of one percent of his Proposal to which his Proposal did not designate a subcontractor.

Should the Contractor violate any of the provisions of Sections 4100 to 4114, inclusive, of the Public Contract Code, his so doing shall be deemed a violation of this Contract, and the County may either cancel the contract, or assess the Contractor a penalty in the amount of not more than ten (10) percent of the amount of the subcontract involved, or both.

ARTICLE 19 TAXES

19.1 SALES AND PAYROLL TAXES

- 19.1.1 Each Contractor, subcontractor, and material dealer shall include in their bid all applicable taxes including but not limited to sales tax and payroll taxes required by law.

ARTICLE 20 CHANGES

20.1 CHANGE ORDER WORK

- 20.1.1 The County reserves the right to make changes in the work without impairing the validity of the Contract. The County may make changes to the work, or suspend the work, and all such changes or suspension are within the contemplation of the parties and will not be a basis for compensable delay. Such changes may be made in accordance with any of the following methods:
- a. By written change order to the Contract ordered by the Board of Supervisors.
 - b. By written change order, signed by the Director of Economic Development Agency in the manner and amounts specified by Board Policy B-11.
 - c. By written authorization, issued by the Director of Economic Development Agency, for items of work done under unit prices. The cost or credit for such added or omitted work shall be determined by multiplying the number of units added to or omitted from the work by the applicable unit price.
- 20.1.2 Upon receipt of a proposed Change Order from County, the Contractor shall submit a proposal in accordance with the requirements and limitations set forth in this "Change Orders" article, for work involved in the contemplated change.
- 20.1.3 The Contractor must submit a cost proposal within fifteen (15) calendar days after receipt of the proposed change order. The Contractor must submit cost proposals in less than fifteen (15) calendar days if requested by the County or if required by schedule limitations.
- 20.1.4 If the Contractor fails to submit the cost proposal within the 15-day period (or as requested), the County has the right to order the Contractor in writing to commence the work immediately on a force account basis and/or issue a lump sum change to the contract price in accordance with the County's estimate of cost. If the change is

issued based on the County estimate, the Contractor will waive his right to dispute the action unless within fifteen (15) calendar days following completion of the added/deleted work, the Contractor presents proof that the County's estimate was in error.

- 20.1.5** If the County disagrees with the proposal submitted by Contractor, it will notify the Contractor in writing and the Contractor may elect to proceed under the DISPUTE article of this Contract, or, in the event either party contests the price or time extension of Change work, or time is of the essence, the County may issue a Construction Change Directive and the contractor shall proceed with the work. The County will provide its opinion of the appropriate price and/or time extension in a "Response to Change Order Request." If the contractor agrees with the County's estimate, a change order will be issued by the County. If no agreement can be reached, the County shall have the right to issue the Change Order Directive setting forth its unilateral determination of the reasonable additions or savings in costs and time attributable to the extra or deleted work. Such determination shall become final and binding if the Contractor fails to submit a Claim in writing to the County, within twenty-one (21) days of the Change Order Directive, disputing the terms of such Directive. No dispute, disagreement or failure of the parties to reach agreement regarding the amount, if any, of any adjustment to the contract sum or contract time shall relieve the Contractor from the obligation to proceed with performance of the work, including extra work, promptly and expeditiously."
- 20.1.6** The Contractor will give notice of a requested change on his letterhead within seven (7) calendar days of discovery and, if the County agrees, a proposed change order will be issued on the County's standard change order form.
- 20.1.7** If any change involves an increase or decrease in the cost of the Contractor's work, a change order shall state the amount to be added or deducted from the Contract amount, and the additional time, if any, needed for the performance of such work.
- 20.1.8** Any changes to the Contract amount shall be in a lump sum mutually agreed to by the Contractor and the County, except that when, in the opinion of the County, such basis is not feasible the change to the Contract amount shall be determined upon a cost-plus-percentage basis with a guaranteed maximum lump sum cost within the limitations provided by law.
- 20.1.9** Each lump sum quotation from the Contractor shall be accompanied by sufficiently detailed estimates to permit verification of totals in accordance with (a) through (d) in 19.1.11 below.
- 20.1.10** When the work is to be done on a cost-plus-percentage basis, the Contractor shall submit statements as required by the County showing all labor, material, and equipment costs incurred, and upon completion of the work, a summary of costs, including overhead and profit, and in accordance with Item (a) through (d) in 19.1.11 below.
- 20.1.11** Estimates for lump sum quotations and accounting for cost-plus-percentage work shall be limited to direct expenditures necessitated specifically by the subject extra work, and shall be segregated as follows:
- a. Labor. The costs of labor will be the actual cost for wages prevailing locally for each craft or type of worker at the time the extra work is done, plus employer payments of payroll taxes and insurance, health and welfare, pension, vacation, apprenticeship funds, and other direct costs resulting from Federal, State or local laws, as well as assessment or benefits required by lawful collective bargaining agreements. The use of a labor classification which would increase the extra work cost will not be permitted unless the contractor establishes the necessity for such additional costs. Labor costs for equipment operators and helpers shall be reported only when such costs are not included in the invoice for equipment rental.
 - b. Materials. The cost of materials reported shall be at invoice or lowest current price at which such materials are locally available in the quantities involved, plus sales tax, freight and delivery.

- c. Tool and Equipment Use. No payment will be made for the use of tools which have a replacement value of \$100 or less. Regardless of ownership, the rates to be used in determining equipment use costs shall not exceed listed rates prevailing locally at equipment rental agencies, or distributors, at the time the work is performed.
- d. Overhead, Profit and Other Charges. The mark-up for overhead and profit on work added to the Contract shall be according to the following Schedule.
 - (1) For work performed by the Contractor's forces the added cost for overhead and profit shall not exceed fifteen (15%) percent of the net cost of the work, equipment, labor and materials.
 - (2) For work performed by a subcontractor, the added cost for overhead and profit shall not exceed fifteen (15%) percent of the net cost of the work, equipment, labor and materials, to which the Contractor may add five (5) percent of the subcontractor's price of the work.
 - (3) For work performed by a sub-subcontractor the added cost for overhead and profit shall not exceed fifteen (15 %) percent of the net cost for work, equipment, labor and materials to which sub-contractor and general contractor may each add an additional five (5 %) percent of the total price from the lower tier subcontractor.
 - (4) "Net Cost" is defined as consisting of costs of labor, materials and equipment use and/or rental only. The costs of applicable insurance and bond premium will be reimbursed to the Contractor and subcontractors at cost only, without mark-up.
 - (5) The cost of direct supervision, except when provided by working foreman whose time is included above, of change order work when done exclusively, and not in conjunction or at the same time as, other work performed on the job and when approved in advance by the County's authorized representative, including only payroll taxes, insurance, pension and direct costs for the labor of supervision may be charged to the change order. The cost of transportation, use of vehicle and other costs incurred by supervision will not be allowed.

20.1.12 For added or deducted work by subcontractors, the Contractor shall furnish to the County the subcontractor's signed detailed estimate of the cost of labor, material and equipment, including the markup by such subcontractor for overhead and profit. The same requirement shall apply to sub-subcontractors.

20.1.13 For added or deducted work furnished by a vendor or supplier, the Contractor shall furnish to the County a detailed estimate or quotation of the cost to the Contractor for such work, signed by such vendor or supplier.

20.1.14 Any change in the work involving both extras and credits shall show a new total cost, including subcontracts. Allowance for overhead and profit, as specified therein, shall be applied if the net total cost is an extra; overhead and profit allowances shall not be applied if the net total cost is a credit. The estimated cost of deductions shall be based on labor and material prices on the date the Contract was executed.

20.1.15 The Contractor shall identify any adjustment in time of the final completion of the Work as a whole which is directly attributable to the changed work within fifteen (15) calendar days of receipt of the proposed change order. The Contractor's request for a change in time will be supported by a detailed schedule analysis including a schedule indicating the activities which have been affected and the additional time being requested.

- a. For a change in time for the Work, the Contractor shall be entitled only to such adjustments where completion of the entire Work (critical path) is delayed due to the performance of the changed work. Failure to request extra time when submitting such estimate shall constitute

waiver of the right to subsequently claim adjustment in time for final completion based upon such changed work.

- b. If the County and the Contractor fail to arrive at an agreement on the amount of extra cost, credit or time extension for a proposed change, a change order will be processed in the amount believed by the County to be reasonable, and the Contractor shall proceed with the work. If the Contractor believes that the amount or time stipulated in the change order is not reasonable for the work required, he may elect to issue a notification in accordance with the DISPUTES article for review by the County, stating therein the basis for his dispute with such change order.

20.1.16 Any change in the Work shall conform to the original Contract Documents insofar as they may apply without conflict to the conditions involved in the change.

20.1.17 Payment for additional work or extras, if any, shall become due and payable in accordance with the provisions for payment in the Contract.

20.1.18 Contractor shall not reserve a right to assess impact cost, extended job site costs, extended overhead, and/or constructive acceleration at a later date as related to any and all changes. All costs or estimated costs must be supported with full schedule and cost documentation with each proposed change within the prescribed submission times. If a request for a change is denied and the Contractor disputes the denial, the Contractor must supply the aforementioned documentation to support his claim under the DISPUTES article of this Contract. No claims shall be allowed for impact, extended overhead costs, and/or construction acceleration due to the multiplicity of changes and/or clarifications. Any attempt by Contractor to change or modify the change order form (sample included herein) shall void the form, including any letters the Contractor may issue in conjunction therewith.

20.1.19 All alterations, extensions of time, extra and additional work and other changes authorized by these specifications or any part of the Contract may be made without securing consent of the surety or sureties on the contract bonds.

20.2 CHANGE ORDERS AND LABOR RATES GUIDELINES

20.2.1 The following are guidelines for preparing change orders:

- a. Labor Rates:

- (1) To establish the labor rate for each classification and trade, a breakdown shall be submitted to the County.
- (2) Labor rates are based on current prevailing state and federal wages. Only those benefits mandated by law or a valid labor contract are paid by the County.
- (3) Payroll taxes shall be paid as mandated by law. Labor related insurances shall be paid according to industry standard average.
- (4) No other costs related to labor shall be paid by County.

- b. Change Orders:

- (1) Change orders shall be prepared in accordance with the project contract.
- (2) No insurance costs are paid by County, except for labor insurances specified in this guideline under section 1 titled "LABOR RATES".

- (3) Material cost shall be broken down on a separate sheet, and for those jobs designated as time and material shall be supported by valid invoices from suppliers.
- (4) Hours for non-productive labor, such as non-working foremen or general foremen, shall be paid only when justified in the opinion of the County, and approved by the County. The total number of nonproductive labor hours shall be limited to a maximum of 15% of the total number of productive labor hours.
- (5) Cost of use of special equipment shall be paid when justified in the opinion of the County, and approved by the County. Equipment refers to special equipment that is needed to perform that specific job, and does not include the usual tools customarily required for that trade. Small tools costs are not paid by County.
- (6) Material transportation costs are paid by County when justified in the opinion of the County, and approved by the County's authorized representative.
- (7) Overhead, profit and fees on subcontracts, are paid according to the contract.
- (8) No costs other than those designated above shall be paid by County. The percentages of overhead and fee allowed with change orders have been established to account for any other direct or indirect costs that might be incurred due to the change order.

20.3 AUDIT

- 20.3.1 The County shall have the right to examine and audit all books, estimates, records, contracts, documents, bid documents, subcontracts, and other data of the Contractor (including computations and projections) related to negotiating, pricing, or performing the modification in order to evaluate the accuracy and completeness of the cost or pricing data at no additional cost to the County.
- 20.3.2 The Contractor shall make available at its office at all reasonable times the materials described in paragraph 19.3.1 above, for examination, audit, or reproduction, until 4 years after final payment under this Contract.
- 20.3.3 The Contractor shall insert a clause containing all the provisions of this 19.3, including this paragraph, in all subcontracts over \$10,000 under this contract.

ARTICLE 21 PAYMENT

For Work Orders with construction duration of forty-five (45) days or less, there will be only one payment for 100% without retention.

21.1 PROGRESS PAYMENTS

- 21.1.1 The County shall pay the Contractor the price as provided in this Contract.
- 21.1.2 The County shall make progress payments monthly as the Work proceeds, on estimates approved by the County. The Contractor shall furnish a breakdown of the total contract price, in a format provided by the County, showing the amount included therein for each principal category of the work, in such detail as requested, to provide a basis for determining progress payments.
- 21.1.3 Contractor shall submit to the County vouchers, schedule activities, or other satisfactory proof of the value of any work for which he claims payment on such account, and receipts showing that progress payments have been duly made on such contracts, and for materials furnished.

- 21.1.4** In the preparation of estimates, the County may authorize 75% of the value of material delivered and satisfactorily stored on the site, and preparatory work done to be taken into consideration for major equipment if:
- a. Consideration is specifically authorized by the Work Order; and
 - b. The Contractor furnishes certified receipt that it has acquired title and paid invoices for such material and that the material will be used to perform this Contract.
- 21.1.5** On the 25th of each month the Contractor will submit his request for payment. Prior to that submittal the County will review the requested percentage of completion for each activity. The payment request will be in the format as provided by the County and will refer to the schedule.
- 21.1.6** Upon receipt of a payment request, the County shall:
- a. Review that request as soon as practicable after receipt for the purpose of determining that the payment request is a proper payment request; and
 - b. Any payment request determined not to be a proper request suitable for payment shall be returned to the Contractor as soon as practicable, but not later than seven (7) calendar days after receipt. The returned request for payment shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper.
- 21.1.7** Any progress payment which is undisputed and properly submitted and remains unpaid for thirty (30) calendar days after receipt by County shall accrue interest to the Contractor equivalent to the legal rate set forth in subdivision (a) of Section 685.010 of the California Code of Civil Procedure. The number of days available to the County to make a payment without incurring interest pursuant to this section shall be reduced by the number of days by which the County exceeds the seven-day return requirement set forth in 20.1.6 above.
- 21.1.8** In making these progress payments, there shall be retained ten percent (10%) from the amount of each progress payment until the work is 50% complete. After the 50% completion point, if satisfactory progress is being made and at the sole discretion of the County, the retention may be reduced to a minimum of 5% of the contract.
- 21.1.9** Except as otherwise prohibited by law, the Contractor may elect to receive all payments due under the contract pursuant to this section without any retention, by posting securities in accordance with Public Contract Code Section 22300.
- 21.1.10** Contractor and each subcontractor shall pay each of its employees engaged in work under this Contract in full (less deductions made mandatory by law) in accordance with California law.
- 21.1.11** The County may withhold (in excess of retentions) or, on account of subsequently discovered evidence, nullify the whole or a part of any certificate to such extent as may be necessary to protect the County from loss on account of:
- a. Defective work not remedied.
 - b. Claims filed or reasonable evidence indicating probable filing of claims.
 - c. Failure of the Contractor to make payments properly to subcontractors or for material or labor.
 - d. Damage to another Contractor.

- e. Delays in progress toward completion of the work, with the stipulated amount of liquidated damages being withheld for each day of delay for which no extension is granted.
- f. Default of the Contractor in the performance of the terms of the Contract.

21.1.12 Should stop notices be filed with the County, County shall withhold the amount required plus 25% from certificates until such claims shall have been resolved pursuant to applicable law. California Civil Code Section 3179 et seq.

21.1.13 At the election of the County, Contractor shall provide, within ten (10) calendar days of receipt of each progress payment, unconditional waivers and release of lien rights, signed by Contractor and each of its subcontractors and materials suppliers, in the form established therefore by Section 3262 of the Civil Code.

21.1.14 All material and work covered by progress payments made shall, at the time of payment, become the sole property of the County, but this shall not be construed as:

- a. An acceptance of any work not in accordance with the Contract Documents; or
- b. Waiving the right of the County to require the fulfillment of all of the terms of the contract.

21.2 FINAL PAYMENT

21.2.1 GENERAL

- a. The County shall pay the amount due the Contractor for the Work Order after:
 - 1.) The Acceptance of all work and Notice of Completion per the terms of this Contract;
 - 2.) Presentation of a properly executed voucher;
 - 3.) Release of all liens and Stop Notices; and
 - 4.) Presentation of release of all claims against the County arising by virtue of this Contract, other than claims and disputes in stated amounts, that the Contractor has specifically excepted from the operation of the release.
- b. The Contractor may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the County, to indemnify him against any lien.

21.2.2 FINAL CERTIFICATE FOR PAYMENT

- a. When the work is ready for acceptance by the County, the Economic Development Agency will certify and prepare for execution a Notice of Completion. Upon approval of the Notice of Completion, a copy will be sent to the Contractor.
- b. Notice of Completion will be recorded by the County upon completion and Acceptance of the Work. Providing no stop notices have been filed, thirty-five (35) calendar days after filing of such Notice of Completion, payment due under the contract will become due to the Contractor and the County shall so certify authorizing the final payment.

21.2.3 FINAL PAYMENT

- a. After Acceptance of Work, the County will submit to Contractor a statement of the sum due Contractor under this contract, together with County payment in the amount thereof. Said statement shall take into account the contract price, as adjusted by any change orders; amounts already paid; sums to be withheld for incomplete work; liquidated damages; and for any other cause under the Contract.
- b. The Contractor shall, from the effective date of Acceptance until the expiration of four years after final settlement under this Contract, preserve and make available to the County, all its books, records, documents, and other evidence bearing on the costs and expenses of the Contractor under this Contract.

ARTICLE 22 SUSPENSION OF WORK/TERMINATION

22.1 NON-COMPLIANCE WITH CONTRACT REQUIREMENTS

22.1.1 In the event the Contractor, after receiving written notice from the County of non-compliance with any requirement of this Contract, fails to promptly initiate appropriate action to comply with the specified requirement, the County shall have the right to withhold payment for work completed under the Contract until the Contractor has complied with the notice or has initiated such action as may be appropriate to comply, within a reasonable period of time. The Contractor shall not be entitled to any extension of contract time or payment for any costs incurred for work under this article.

22.1.2 Should the Contractor abandon the Work called for under the Contract, or assign his Contract, or unnecessarily and unreasonably delay the work, or willfully violate or perform the work in bad faith, the County shall have the power to notify the Contractor to discontinue all work or any part thereof under this Contract, and thereupon the Contractor shall cease to continue said work or such part thereof as the County may designate, and the County shall have the power to employ such persons as it may consider desirable, and to obtain by contract, purchase, hire or otherwise, such implements, tools, material or materials as the County may deem advisable to work at and be used to complete the work herein described, or such part thereof as shall have not been completed, and to use such material as it may find upon the site of the work, and to charge the expense of such labor and material, implements and tools to the Contractor, and the expense so charged shall be deducted and paid by the County out of such monies as may either be due, or may at any time thereafter become due to the Contractor under the Contract.

22.2 TERMINATION

22.2.1 TERMINATION FOR BREACH

If the Contractor should be adjudged bankrupt or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if he or any of his subcontractors should violate any of the provisions of the Contract, the County may serve written notice upon him and his surety of its intention to terminate Contractor's performance hereunder, said notice shall contain the reasons for such intention to terminate Contractor's performance, and, unless within ten (10) calendar days after serving of said notice, such violation shall cease and satisfactory arrangements for correction thereof be made, Contractor's performance shall, upon the expiration of said ten (10) calendar days, cease and terminate. In the event of any such termination, the County shall immediately serve written notice thereof upon the surety and the Contractor, and the County may take over the Contractor's work for the Work Order and prosecute the same to completion by contract or by any other method it may deem advisable, for the account and at the expense of the Contractor, and the Contractor and his surety shall be liable to the County for any excess cost occasioned the County thereby, and in such event the County may without liability for so doing take possession of and utilize in completing the work, such materials, appliances, plants, and other property belonging to the Contractor as may be on the site of the work and necessary therefore.

22.2.2 TERMINATION FOR CONVENIENCE

- a. If the construction of the project herein is damaged, which damage is determined to have been proximately caused by an Act of God, in excess of 5% of the contract amount, provided that the work damaged is built in accordance with applicable building standards and the plans and specifications, then the County may, without prejudice to any other right or remedy, terminate the Contract.
- b. The County may terminate performance of work under this Contract in whole or in part, if the County determines that a termination is in the County's interest. The County shall terminate by delivering to the Contractor a Notice to Terminate specifying the extent of termination and the effective date.
- c. After receipt of such Notice, and except as directed by the County, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:
 - (1) Stop work as specified in the notice.
 - (2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete any continued portion of the Contract.
 - (3) To terminate all subcontracts to the extent they relate to the work terminated.
 - (4) With approval or ratification to the extent required by the County, settle all outstanding liabilities and termination settlement proposals arising from termination of subcontracts; the approval or ratification will be final for purposes of this clause.
 - (5) As directed by the County, transfer title and deliver to the County (1) the fabricated or unfabricated parts; work in progress, completed work, supplies, and other material produced or acquired for the work terminated; and (2) the completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the County.
 - (6) Complete performance of work not terminated.
 - (7) Take any action that may be necessary, or that the County may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the County has or may acquire an interest.
 - (8) Use its best efforts to sell, as directed or authorized by the County, any property of the types referred to in subparagraphs above; provided, however, that the Contractor (1) is not required to extend credit to any purchaser and (2) may acquire the property under the conditions prescribed by, and at prices approved by the County. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the County under this contract, credited to the price or cost of the work, or paid in any other manner directed by the County.
- d. After termination, the Contractor shall submit a final termination settlement proposal to the County in the form and with the certification prescribed by the County. The Contractor shall submit the proposal promptly, but no later than thirty (30) days from the effective date of termination. If the Contractor fails to submit the proposal within the time allowed, the

County may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and shall pay the amount determined.

- e. Subject to subparagraph (2) above, the Contractor and the County may agree upon the whole or any part of the amount to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, may not exceed the total contract price as reduced by:
 - (1) the amount of payments previously made and;
 - (2) the contract price of work not terminated. The contract shall be amended with a Change Order, and the Contractor paid the agreed amount.
- f. If the Contractor and County fail to agree on the whole amount to be paid the Contractor because of the termination of work, the County shall pay the Contractor the amounts determined as follows:
 - (1) For contract work performed before the effective date of termination, the total (without duplication of any terms) of:
 - (i) The cost of this work;
 - (ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subdivision (i) above; and
 - (iii) A sum, as profit on (i) above, determined by the County to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the County shall allow no profit under this subdivision (iii).
 - (2) The reasonable costs of settlement of the work terminated including:
 - (i) Accounting, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data; and
 - (ii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.
- g. Except for normal spoilage, the County shall exclude from the amounts payable to the Contractor the fair value, as determined by the County, of defective work, and of property that is destroyed, lost, stolen, or damaged so as to become undeliverable.
- h. The Contractor shall have the right to make a claim under the DISPUTES article, from any determination made by the County.
- i. In arriving at the amount due the Contractor, there shall be deducted:
 - (1) All unliquidated advance or other payments to the Contractor under the terminated portion of this Contract;
 - (2) Any claim which the County has against the Contractor under this Contract; and
 - (3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things

acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the County.

- j. If the termination is partial, the Contractor may file a proposal with the County for a Change Order of the price(s) of the continued portion of the Contract. The County shall process any Change Order agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within thirty (30) days from the effective date of termination unless extended in writing by the County.
- k. The County may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the Contract, if the County believes the total of these payments will not exceed the amount to which the Contractor will be entitled. If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the County upon demand, together with interest.
 - l. Unless otherwise provided in this Contract or by statute, the Contractor will maintain all records and documents relating to the terminated portion of this Contract for 4 years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this Contract. The Contractor shall make these records and documents available to the County, State and/or the U.S. Government or their representatives at all reasonable times, without any direct charge.

ARTICLE 23 DISPUTES/CLAIMS

23.1 CLAIMS RESOLUTION

In accordance with Public Contract Code Sections 20104 20104.6 and other applicable law, public works claims of \$375,000 or less which arise between the Contractor and the Owner shall be resolved under the following the statutory procedure unless the Owner has elected to resolve the dispute pursuant to Public Contract Code Section 10240 et seq.

- a. All claims shall be submitted in writing and accompanied by substantiating documentation. Claims must be filed on or before the date of final payment unless other notice requirements are provided in the contract. "Claim" means a separate demand by the claimant for (1) a time extension, (2) payment of money or damages arising from work done by or on behalf of the claimant and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled, or (3) an amount the payment of which is disputed by the Owner.
- b. Claims Under \$50,000. The Owner shall respond in writing to the claim within 45 days of receipt of the claim, or, the Owner may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses or claims the Owner may have. Of additional information is needed thereafter, it shall be provided upon mutual agreement of the Owner and the claimant. The Owner's written response shall be submitted 15 days after receiving the additional documentation, or within the same period of time taken by the claimant to produce the additional information, whichever is greater.
- c. Claims over \$50,000 but less than or equal to \$375,000. The Owner shall respond in writing within 60 days of receipt, or, may request in writing within 30 days of receipt of the claim, any additional documents supporting the claim or relating to defenses or claims the Owner may have against the claimant. If additional information is needed thereafter, it shall be provided pursuant to mutual agreement between the Owner and the claimant. The Owner's response shall be submitted within 30 days after receipt of the further documents, or within the same period of time taken by the claimant to produce the additional information or

documents, whichever is greater. The Contractor shall make these records and documents available to the County, State and/or the U.S. Government or their representatives at all reasonable times, without any direct charge.

- d. If the claimant disputes the Owner's response, or if the Owner fails to respond within the statutory time period(s), the claimant may so notify the Owner within 15 days of the receipt of the response or the failure to respond, and demand an informal conference to meet and confer for settlement. Upon such demand, the Owner shall schedule a meet and confer conference within 30 days.
- e. If following the meet and confer conference, the claim or any portion thereof remains in dispute, the claimant may file a claim pursuant to Government Code 900 et seq. and Government Code 910 et seq. For purposes of those provisions, the time within which a claim must be filed shall be tolled from the time the claimant submits the written claim until the time the claim is denied, including any time utilized for the meet and confer conference.
- f. If a civil action is filed to resolve any claim, the provisions of Public Contract Code 20104.4 shall be followed, providing for nonbinding mediation and judicial arbitration.

23.2 CLAIM FORMAT/REQUIREMENTS

23.2.1 The Contractor will submit the claim justification in the following format:

- a. Summary of claim merit and price plus clause under which the claim is made.
- b. List of documents relating to claim
 - (a) Specifications
 - (b) Drawings
 - (c) Clarifications (RFIS)
 - (d) Schedules
 - (e) Other
- c. Chronology of events and correspondence
- d. Analysis of claim merit
- e. Analysis of claim cost
- f. Analysis of Time in CPM format
- g. Cover letter and certification (form included herein)

23.2.2 If any claim submitted includes a request for overhead, the County may request a Profit & Loss statement and supporting documentation from Contractor. If requested, such documentation must be submitted for the County to consider the claim.

23.2.3 Submission of a claim, properly certified, with all required supporting documentation, and written rejection or denial of all or part of the claim by County, is a condition precedent to any action, proceeding, litigation, suit, general conditions claim, or demand for arbitration by Contractor.

2.3.3 NOTICE OF THIRD PARTY CLAIMS

The County shall provide notification to the Contractor within a reasonable time after receipt of any third-party claim relating to the Construction Contract.