

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



ITEM: 3.44  
(ID # 24586)

MEETING DATE:  
Tuesday, August 27, 2024

FROM : HOUSING AND WORKFORCE SOLUTIONS

**SUBJECT:** HOUSING AND WORKFORCE SOLUTIONS/COMMUNITY ACTION PARTNERSHIP (HWS/CAP): Approve the Weatherization Program Agreement ("Agreement") with American Eco Services, Inc. and Community Action Partnership through June 30, 2028; All Districts. [\$875,000 Total Aggregate; up to \$87,500 in additional compensation - 100% State of California Department of Community Services and Development Funds]

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Approve the Weatherization Program ("Agreement") with American Eco Services, Inc., not to exceed the total aggregate amount of \$875,000 through June 30, 2028, and authorize the Chair of the Board of Supervisors to sign three (3) copies of the same on behalf of the County;
2. Authorize the Purchasing Agent, in accordance with Ordinance No. 459, and based on the availability of fiscal funding and approved by County Counsel, to: (a) sign amendments modifying the scope of services, that stay within the intent of the Agreement and (b) sign amendments to the compensation provisions that do not exceed \$87,500 for the term of the Agreement. (c) authorize the Purchasing Agent, or designee, to issue Purchase Orders for goods and/or services that do not exceed the total contract amount; and
3. Direct the Clerk of the Board to return three (3) copies of the Agreement to Community Action Partnership for distribution.

**ACTION:Policy**

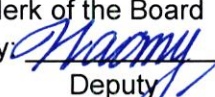
  
Heidi Marshall, Director 8/15/2024

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**MINUTES OF THE BOARD OF SUPERVISORS**

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

Ayes: Jeffries, Spiegel, Washington, Perez and Gutierrez  
Nays: None  
Absent: None  
Date: August 27, 2024  
xc: HWS/CAP

Kimberly A. Rector  
Clerk of the Board  
By   
Deputy

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STATE OF CALIFORNIA**

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$175,000	\$175,000	\$875,000	\$0
<b>NET COUNTY COST</b>	\$0	\$0	\$0	\$0
<b>SOURCE OF FUNDS:</b> State of California Community Services and Development Funds 100%			<b>Budget Adjustment:</b> No	
			<b>For Fiscal Year:</b> 24/25-28/29	

**C.E.O. RECOMMENDATION:** Approve

**BACKGROUND:**

**Summary**

Annual Award of LIHEAP Funds

The State of California's Department of Community Services and Development (CSD) sponsors the Low-Income Home Energy Assistance Program (LIHEAP) for cities and local governments with populations of 50,000 or more within California. Funds for the LIHEAP program originate annually through the Federal appropriations process and are granted to CSD by the United States Department of Health and Human Services (HHS). Among other things, LIHEAP provides local agencies with the financial resources to hire contractors to install, repair, or renovate the heating, cooling, insulation, and weatherization needs of dwellings belonging to or occupied by low-income residents of Riverside County.

CSD has awarded Housing and Workforce Solutions/Community Action Partnership (CAP) several grants, supplemental funding, and amendments with additional funding:

- A total of \$8,181,200 in LIHEAP grant funding with Contract #22B-4027 (referred to as LIHEAP 2022). The funds are to be used for utility assistance and weatherization services for low-income residents. This contract was approved by the Board of Supervisors (BOS) on February 8, 2022 (Minute Order 3.14).
- A total of \$6,312,214 in Bipartisan Infrastructure Law (BIL) Department of Energy (DOE) Weatherization Assistance Program (WAP) grant funding with Contract #22P-7020 (referred to as BIL DOE WAP 2023).
- A total of \$351,404 in Department of Energy (DOE) Weatherization Assistance Program (WAP) grant funding with Contract amendment #22C-6021 (referred to as DOE WAP 2024).

CAP is the Project Sponsor and has administered these Weatherization programs for many years. As Project Sponsor, CAP plans, coordinates, and monitors weatherization services for eligible Riverside County residents. Such services include the repair or replacement of

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HVAC systems, insulation, weatherstripping, furnaces, heaters, and energy efficient lighting in effort to reduce energy costs.

The continued awarding of these grants is dependent on CAP's ability to perform in servicing the many low-income residents currently on the Weatherization Program's waiting list. Typically, the awards are divided among all subcontractors depending on production capacity. These funds are to be used for emergency heating and cooling repair services for CAP's approved low-income clients.

County Purchasing recently advertised a Request for Qualifications (RFQu) and American Eco Services, Inc. was the only contractor deemed qualified and was subsequently selected by CAP as an eligible subcontractor.

Staff recommends that the Board of Supervisors now accept and approve the award of the Weatherization contract to American Eco Services, Inc. (Contractor) and approve the form of Professional Services Agreement effective upon signatures and shall continue until all funds are expended or until June 30, 2028, whichever occurs first.

**Impact on Residents and Businesses**

CAP's contractor will be able to install, repair, or renovate the heating, cooling, insulation, and weatherization needs of dwellings belonging to or occupied by low-income residents of Riverside County.

**Additional Fiscal Information**

No County General Funds would be required. The total dollar amount of the Weatherization Subcontractor Agreements with each of CAP's contractors is not a guarantee of payment amount. This total dollar amount is the maximum amount that is available per contractor for performing billable work under the CSD contract. Any unspent contract amount will be carried forward to the next fiscal year, pursuant to the terms of the funding source.

**Contract History and Price Reasonableness**

The County of Riverside Purchasing Department, on behalf of Community Action Partnership, issued a Request for Qualification (RFQU) #CAARC-0060, released on Public Purchase.com and closed November 9, 2023. Nineteen (19) contractors were notified, sixteen (16) downloaded the bid package and two (2) bids were received.

After careful evaluation of the response, the County determined that American Eco Services, Inc. was determined to be responsive and responsible. The contractor possesses all the required licensure and current certifications to perform this service. The proposal was reviewed by CAP's evaluation committee, which selected American Eco Services, Inc. as the only bidder that possessed a valid, C-20 - Warm-Air Heating, Ventilating and Air-Conditioning Contractor's license, necessary to do the work.

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STATE OF CALIFORNIA

ATTACHMENT:

- Form of Professional Services Agreement with American Eco Services, Inc.

*Melissa Curtis*

Melissa Curtis, Deputy Director of Purchasing and Fleet

8/15/2024

*Brianne Lontajo*

Brianne Lontajo, Principal Management Analyst

8/20/2024

*Aaron Gettis*

Aaron Gettis, Chief of Deputy County Counsel

8/16/2024

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**PROFESSIONAL SERVICES AGREEMENT**

**For**

**Weatherization Services**

**By and Between**

**The County of Riverside**

**and**

**American Eco Services, Inc.**



AUG 27 2024 3.44

1 THIS PROFESSIONAL SERVICES AGREEMENT FOR WEATHERIZATION  
2 SERVICES ("Agreement"), is made and entered into between AMERICAN ECO  
3 SERVICES, INC., a California corporation ("CONTRACTOR") and the COUNTY OF  
4 RIVERSIDE, a political subdivision of the State of California, on behalf of its Community  
5 Action Partnership agency, ("CAP"). This Agreement shall become effective upon  
6 execution by both parties. The parties agree as follows:  
7

8 **1. Description of Services**

9 CONTRACTOR shall provide CAP Riverside clients, who are low-income, and  
10 their families weatherization services as outlined and specified in the Scope of Service,  
11 attached hereto as Exhibit "A" and incorporated herein by this reference.

12 **1.1** CONTRACTOR represents that it has the skills, experience, and  
13 knowledge necessary to fully and adequately perform under this Agreement, and CAP  
14 Riverside relies upon this representation. CONTRACTOR shall perform to the  
15 satisfaction of CAP, and CONTRACTOR shall perform the services and duties in  
16 conformance to and consistent with the standards generally recognized as being  
17 employed by professionals in the same discipline in the State of California.  
18 CONTRACTOR further represents and warrants to CAP that it has all licenses, permits,  
19 qualifications and approvals of whatever nature are legally required to practice its  
20 profession and provide weatherization services. CONTRACTOR further represents that  
21 it shall keep all such licenses and approvals in effect during the term of this Agreement.  
22 CONTRACTOR further represents that it is familiar with all the California State  
23 Community Services and Development Department ("CSD") compliance documents that  
24 are available online on the CSD website at: <http://www.providers.csd.ca.gov>.  
25 CONTRACTOR further affirms that is has registered for access to the CSD website.

26 **1.2** CONTRACTOR shall comply with all applicable terms as set forth in the  
27 State of California – Department of General Services Standard Agreement 21B-5027.  
28

1           **1.3**    CONTRACTOR affirms that it is fully apprised of all of the work to be performed  
2 under this Agreement; and CONTRACTOR agrees it can properly perform this work at the  
3 fees stated in Exhibit "B", attached hereto and incorporated herein by this reference, or in the  
4 amounts as otherwise structured by CAP, if the CONTRACTOR'S fees are in excess of the  
5 maximum allowable amounts. CONTRACTOR shall not perform services or provide products  
6 that are not set forth in this Agreement, unless by prior written request of CAP.

7           **1.4**    Acceptance by CAP of CONTRACTOR'S performance under this Agreement  
8 does not operate as a release of CONTRACTOR'S responsibility for full compliance with the  
9 terms of this Agreement.

10          **1.5**    CAP shall provide a weatherization assessment on each eligible household,  
11 which shall serve as the Scope of Work for that job.

12  
13    **2.       Period of Performance**

14          **2.1**    This Agreement shall commence upon signature of this Agreement by both  
15 parties and shall continue until all funds are expended or until June 30th, 2028, whichever  
16 occurs first, unless earlier terminated pursuant to either Paragraph 3.4 or Paragraph 5  
17 below. CONTRACTOR shall commence performance upon that date and shall diligently  
18 and continuously perform thereafter.

19  
20    **3.       Compensation**

21          **3.1**    CAP shall pay CONTRACTOR for services performed, products provided,  
22 and expenses incurred in accordance with CONTRACTOR'S bid and the Pricing Matrix,  
23 attached hereto as Exhibit "B" and incorporated herein by this reference. Maximum  
24 payment by CAP to CONTRACTOR for the services provided herein, shall not exceed  
25 EIGHT HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$875,000), including all  
26 expenses, ("Contracted Amount") over the term of this Agreement.

27                CAP shall not be responsible for any fees or costs incurred above or beyond the  
28 aforementioned Contracted Amount and CAP shall have no obligation to purchase any

1 specified amount of services or products, unless agreed to in writing by CAP pursuant  
2 to Paragraph 4 below. CONTRACTOR shall not be entitled to any additional fees for any  
3 of the Weatherization Services other than those set forth below.

4 No compensation shall be allowed for administrative, overhead, word processing  
5 (normal or overflow secretarial time or overtime, or computer time or service) and related  
6 expenses.

7 **3.2** The maximum amounts payable to the CONTRACTOR pursuant to this  
8 Agreement shall not exceed the amounts listed in Exhibit "B" and/or those authorized by  
9 LIHEAP and CSD standards for that particular calendar year. If any of the amounts listed  
10 in Exhibit "B" are in excess of these maximum allowable costs, then those costs shall be  
11 reduced to the maximum allowable amount(s) by CAP in its sole and absolute discretion.

12 **3.3** CONTRACTOR shall be paid only in accordance with an invoice submitted  
13 to CAP by CONTRACTOR. CAP shall pay the invoice within thirty (30) working days  
14 from the date of receipt of the invoice. Payment shall be made to CONTRACTOR only  
15 after services have been rendered or delivery of materials or products, and acceptance  
16 has been made by CAP Riverside. Prepare invoices in duplicate. For this Agreement,  
17 send the original and duplicate copies of invoices to:

18 Community Action Partnership - Riverside  
19 2038 Iowa Avenue Ste. B-102, Riverside, CA 92507  
20 ATTN: Executive Director  
21 (951) 955-4900

22 **a)** The CONTRACTOR shall submit a weekly invoice for actual expenses  
23 incurred in providing the Service along with appropriate documentation of  
24 expenditures (receipts, copies of checks issued, timecards, travel expense,  
25 etc.); remittance address; and an invoice total.

26 **b)** The Invoice must be submitted within five (5) working days of the end of  
27 the reporting period. Expenditures may not be reimbursed if all documentation  
28 is not received in a timely manner.



1           c) If the eligibility of expenditures cannot be determined because  
2           CONTRACTOR'S records or documentation are nonexistent or inadequate,  
3           according to generally accepted accounting practices, the questionable costs  
4           shall be disallowed by CAP.

5           **3.4**    CAP's obligation for payment of this Agreement beyond June 30 of any  
6           year within term of agreement is contingent upon and limited by the availability of funding  
7           from which payment can be made. No legal liability on the part of CAP shall arise for  
8           payment beyond June 30, unless funds are made available for such payment. In the  
9           event that such funds are not forthcoming for any reason, CAP shall immediately notify  
10          CONTRACTOR in writing, and this Agreement shall be deemed terminated and have no  
11          further force and effect.

12          **3.5**    CONTRACTOR acknowledges and agrees that this Agreement and the  
13          provision of services hereunder is nonexclusive and that the CAP may enter into similar  
14          agreements with other entities for the provision of similar services.

15          **3.6**    The CONTRACTOR agrees that if, during the period of performance, CAP  
16          determines that the total Contracted Amount will not be expended, CAP, in its sole and  
17          absolute discretion, reserves the right to reduce the Contracted Amount, as determined  
18          by a review of CONTRACTOR'S invoices. Any reductions will be made in accordance  
19          with the terms outlined below in Paragraph 4 and/or Paragraph 5.

20  
21          **4.    Alteration or Changes to the Agreement**

22          **4.1**    No alteration or variation of the terms of this Agreement shall be valid  
23          unless made in writing and signed by the parties hereto, and no oral understanding or  
24          agreement not incorporated herein shall be binding on any of the parties hereto other  
25          than as defined below in Section 4.3. No additional services shall be performed by  
26          CONTRACTOR without a written amendment to this Agreement.

27          **4.2**    CONTRACTOR understands that the Contracting Officer or the HHPWS  
28          Director or designee, are the only authorized CAP representatives who may at any time,

1 by written order, make any alterations within the general scope of this Agreement.

2       **4.3** Additional Required Measures: If any new or additional construction,  
3 weatherization or rehabilitation measures, requirements or standards are adopted or  
4 required by the County of Riverside, the State of California, or the U.S. Government,  
5 during the term of this Agreement, those new measures shall be considered the required  
6 standards and shall replace all relevant current Scope of Work requirements, upon two  
7 working days written notice to the CONTRACTOR.

8       **4.4** Any claim by the CONTRACTOR for additional payment related to this  
9 Agreement shall be made in writing by the CONTRACTOR within 30 days of when the  
10 CONTRACTOR has or should have notice of any actual or claimed change in the Scope  
11 of Service, which results in additional and unanticipated cost to the CONTRACTOR. If  
12 the Contracting Officer decides that the facts provide sufficient justification, he may  
13 authorize additional payment to the CONTRACTOR pursuant to the claim. Nothing in  
14 this Paragraph 4 shall excuse the CONTRACTOR from proceeding with performance of  
15 the Agreement even if there has been a change in the Scope of Service.

16  
17 **5. Termination**

18       **5.1** CAP may, by written notice to CONTRACTOR, terminate this Agreement in  
19 whole or in part at any time. Such termination may be for CAP's convenience or because  
20 of CONTRACTOR'S failure to perform its duties and obligations under this Agreement  
21 including, but not limited to, the failure of CONTRACTOR to timely perform services  
22 pursuant to this Agreement, including, but not limited to the Scope of Service attached  
23 hereto as Exhibit "A" and incorporated herein by this reference.

24       **5.2 Discontinuance of Services.** Upon Termination, CONTRACTOR shall,  
25 unless otherwise directed by the notice, discontinue all services and deliver to CAP all  
26 data, estimates, graphs, summaries, reports, and other related materials as may have  
27 been prepared or accumulated by CONTRACTOR in performance of services, whether  
28 completed or in progress.

1           **5.3**    Effect of Termination for Convenience. If the termination is to be for the  
2 convenience of CAP, then CAP shall compensate CONTRACTOR for services  
3 satisfactorily provided through the date of termination. CONTRACTOR shall provide  
4 documentation deemed adequate by CAP to show the services actually completed by  
5 CONTRACTOR prior to the date of termination. This Agreement shall terminate thirty  
6 (30) days following receipt by CONTRACTOR of the written notice of termination.

7           **5.4**    Effect of Termination for Cause. If the termination is due to the failure of  
8 CONTRACTOR to fulfill its obligations under this Agreement, CONTRACTOR shall be  
9 compensated for those services which have been completed in accordance with this  
10 Agreement and accepted by CAP. In such case, CAP may take over the work and  
11 prosecute the same to completion by contract or otherwise. Further, CONTRACTOR  
12 shall be liable to CAP for any reasonable additional costs incurred by CAP to revise work  
13 for which CAP has compensated CONTRACTOR under this Agreement, but which the  
14 CAP has determined in its sole discretion needs to be revised in part or whole to  
15 complete the project. Prior to discontinuance of services, CAP may arrange for a meeting  
16 with CONTRACTOR to determine what steps, if any, CONTRACTOR can take to  
17 adequately fulfill its requirements under this Agreement. In its sole discretion, CAP may  
18 propose an adjustment to the terms and conditions of the Agreement, including the  
19 contract price. Such contract adjustments, if accepted in writing by the parties, shall  
20 become binding on CONTRACTOR and shall be performed as part of this Agreement.  
21 In the event of termination for cause, unless otherwise agreed to in writing by the parties,  
22 this Agreement shall terminate seven (7) days following the date the notice of termination  
23 was mailed to CONTRACTOR. Termination of this Agreement for cause may be  
24 considered by CAP in determining whether to enter into future agreements with  
25 CONTRACTOR.

26           **5.5**    Notwithstanding any of the provisions of this Agreement, CONTRACTOR'S  
27 rights under this Agreement shall terminate (except for fees accrued prior to the date of  
28 termination) upon dishonesty, or a willful or material breach of this Agreement by

1 CONTRACTOR, or in the event of CONTRACTOR'S unwillingness or inability for any  
2 reason whatsoever to perform the duties hereunder, or if the Agreement is terminated  
3 pursuant to this Paragraph 5. In such event, CONTRACTOR shall not be entitled to any  
4 further compensation under this Agreement.

5 **5.6** If this Agreement is federally or State funded, CONTRACTOR shall not be  
6 debarred from the System for Award Management (SAM). CONTRACTOR must notify  
7 CAP immediately of a debarment. Reference: System for Award Management (SAM) at  
8 <https://www.sam.gov> for the Central Contractor Registry (CCR), Federal Agency  
9 Registration (FedReg), Online Representations and Certifications Application, (ORCA)  
10 and Excluded Parties List System (EPLS). (Executive Order 12549, 7 CFR Part 3017,  
11 45 CFR Part 76, and 44 CFR Part 17). The System for Award Management (SAM) is the  
12 Official U.S. Government system that consolidated the capabilities of CCR, FedReg,  
13 ORCA, and EPLS.

14 **5.7** The rights and remedies of CAP provided in this Paragraph 5 shall not be  
15 exclusive and are in addition to any other rights and remedies provided by law or this  
16 Agreement.

17  
18 **6. Ownership/Use of Contract Materials and Products**

19 CONTRACTOR agrees that all materials, reports, or products in any form, including  
20 electronic, created by the CONTRACTOR for which the CONTRACTOR has been  
21 compensated by CAP pursuant to this Agreement shall be the sole property of CAP. The  
22 material, reports or products may be used by CAP for any purpose that it deems to be  
23 appropriate, including but not limited to, duplication and/or distribution within CAP or to  
24 third parties. CONTRACTOR agrees not to release or circulate in whole or part such  
25 materials, reports, or products without prior written authorization of CAP.

26  
27 **7. Conduct of Contractor**

28 **7.1** CONTRACTOR covenants that it presently has no interest, including but

1 not limited to, other projects or independent contracts, and shall not acquire any such  
2 interest, direct or indirect, which would conflict in any manner or degree with the  
3 performance of services required under this Agreement. CONTRACTOR further  
4 covenants that in the performance of this Agreement, no person having any such interest  
5 shall be employed or retained by it under this Agreement. CONTRACTOR agrees to  
6 inform CAP of all CONTRACTOR'S interests, if any, which are or may be perceived as  
7 incompatible with CAP'S interests.

8       **7.2** CONTRACTOR shall not, under circumstances which could be interpreted  
9 as an attempt to influence the recipient in the conduct of his/her duties, accept any  
10 gratuity or special favor from individuals or firms with whom CONTRACTOR is doing  
11 business or proposing to do business, in accomplishing the work under this Agreement.

12       **7.3** CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and  
13 entertainment directly or indirectly to CAP employees.

14       **7.4** CONTRACTOR agrees to submit to CAP, prior to release, copies of any  
15 proposed publicity pertaining to this Agreement. CAP reserves the right to modify or  
16 withdraw said publicity, in its sole and absolute discretion.

17  
18 **8. Inspection of Service; Quality Control/Assurance**

19       **8.1** All performance (which includes services, workmanship, materials,  
20 supplies and equipment furnished or utilized in the performance of this Agreement) shall  
21 be subject to inspection and test by CAP or other regulatory agencies at all times. The  
22 CONTRACTOR shall provide adequate cooperation to CAP representative(s) to permit  
23 him/her to determine CONTRACTOR'S conformity with the terms of this Agreement. If  
24 any services performed or products provided by CONTRACTOR are not in conformance  
25 with the terms of this Agreement, CAP shall have the right to require CONTRACTOR to  
26 perform the services or provide the products in conformance with the terms of the  
27 Agreement at no additional cost to CAP. When the services to be performed or the  
28 products to be provided are of such nature that the difference cannot be corrected, CAP

1 shall have the right to: (1) require CONTRACTOR immediately to take all necessary  
2 steps to ensure future performance in conformity with the terms of the Agreement; and/or  
3 (2) reduce the Agreement price to reflect the reduced value of the services performed or  
4 products provided. CAP may also terminate this Agreement for default and charge to  
5 CONTRACTOR any costs incurred by CAP because of CONTRACTOR'S failure to  
6 perform.

7 **8.2** CONTRACTOR shall establish adequate procedures for self-monitoring to  
8 ensure proper performance under this Agreement; and shall permit a CAP  
9 representative(s) to monitor, assess or evaluate CONTRACTOR'S performance under  
10 this Agreement at any time upon reasonable notice to CONTRACTOR.

11  
12 **9. Independent Contractor/Employment Eligibility**

13 **9.1** CONTRACTOR is, for purposes relating to this Agreement, an  
14 independent contractor and shall not be deemed an employee of CAP. It is expressly  
15 understood and agreed that CONTRACTOR (including its employees, agents and  
16 subcontractors) shall in no event be entitled to any benefits to which CAP employees are  
17 entitled, including but not limited to overtime, any retirement benefits, worker's  
18 compensation benefits, and injury leave or other leave benefits. There shall be no  
19 employer-employee relationship between the parties, and CONTRACTOR shall hold  
20 CAP harmless from any and all claims that may be made against CAP based upon any  
21 contention by a third party that an employer-employee relationship exists by reason of  
22 this Agreement. It is further understood and agreed by the parties that CONTRACTOR  
23 in the performance of this Agreement is subject to the control or direction of CAP merely  
24 as to the results to be accomplished and not as to the means and methods for  
25 accomplishing the results.

26 **9.2** CONTRACTOR warrants that it shall make its best effort to fully comply  
27 with all federal and state statutes and regulations regarding the employment of aliens  
28 and others and to ensure that employees performing work under this Agreement meet

1 the citizenship or alien status requirement set forth in federal statutes and regulations.  
2 CONTRACTOR shall obtain from all employees performing work hereunder, all  
3 verification and other documentation of employment eligibility status required by federal  
4 or state statutes and regulations including, but not limited to, the Immigration Reform and  
5 Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be  
6 hereafter amended. CONTRACTOR shall retain all such documentation for all covered  
7 employees, for the period prescribed by the law.

8  
9 **10. Subcontract for Work or Services**

10 No contract shall be made by CONTRACTOR with any other party for furnishing  
11 any of the work or services under this Agreement without the prior written approval of  
12 CAP Riverside, but this provision shall not require the approval of contracts of  
13 employment between CONTRACTOR and personnel assigned under this Agreement, or  
14 for parties previously named in the RFQ and agreed to under this Agreement.

15  
16 **11. Disputes**

17 **11.1** The parties shall attempt to resolve any disputes amicably at the working  
18 level. If that is not successful, the dispute shall be referred to the senior management of  
19 the parties. Any dispute relating to this Agreement which is not resolved by the parties  
20 shall be decided by the Contracting Officer who shall furnish the decision in writing. The  
21 decision of the Contracting Officer shall be final and conclusive unless determined by a  
22 court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so  
23 grossly erroneous as necessarily to imply bad faith.

24 **11.2** CONTRACTOR shall not delay or postpone any Work pending  
25 resolution of any disputes or disagreements, except as the COUNTY or CONTRACTOR  
26 may otherwise agree in writing. Pending final resolution of a dispute and/or claim, the  
27 CONTRACTOR shall proceed diligently with performance of the Agreement and the  
28 COUNTY shall continue to make payments for undisputed Work in accordance with the

1 Agreement Documents. CONTRACTOR shall proceed diligently with the performance of  
2 this Agreement pending the resolution of a dispute.

3       **11.3** Prior to the filing of any legal action related to this Agreement, the parties  
4 shall be obligated to attend a mediation session in Riverside County before a neutral  
5 third-party mediator. A second mediation session shall be required if the first session is  
6 not successful. The parties shall share the cost of the mediations. Each party shall be  
7 responsible for its own legal fees and other expenses incident to the preparation for  
8 mediation.

9  
10 **12. Licensing and Permits**

11       CONTRACTOR shall comply with all State or other licensing requirements,  
12 including but not limited to the provisions of Chapter 9 of Division 3 of the Business and  
13 Professions Code. All licensing requirements shall be met at the time proposals are  
14 submitted to CAP. CONTRACTOR warrants that it has all necessary permits, approvals,  
15 certificates, waivers and exemptions necessary for performance of this Agreement as  
16 required by the laws and regulations of the United States, the State of California, the  
17 County of Riverside and all other governmental agencies with jurisdiction and shall  
18 maintain these throughout the term of this Agreement.

19  
20 **13. Data Security**

21       **13.1 Definitions:** Capitalized terms used herein shall have the meanings set  
22 forth in this Paragraph 13.

23       “Authorized Employees” means CONTRACTOR’S employees who have a need  
24 to know or otherwise access Personal Information to enable CONTRACTOR to perform  
25 its obligations under this Agreement.

26       “Authorized Persons” means (i) Authorized Employees; and (ii) CONTRACTOR’S  
27 subcontractors, agents, and auditors who have a need to know or otherwise access  
28 Personal Information to enable CONTRACTOR to perform its obligations under this



1 Agreement, and who are bound in writing by confidentiality obligations sufficient to  
2 protect Personal Information in accordance with the terms and conditions of this  
3 Agreement.

4 "Highly-Sensitive Personal Information" means an (i) individual's government-  
5 issued identification number (including social security number, driver's license number  
6 or state-issued identified number); (ii) financial account number, credit card number,  
7 debit card number, credit report information, with or without any required security code,  
8 access code, personal identification number or password, that would permit access to  
9 an individual's financial account; or (iii) biometric or health data.

10 "Personal Information" means information provided to CONTRACTOR by or at  
11 the direction of CAP, or to which access was provided to CONTRACTOR by or at the  
12 direction of CAP, in the course of CONTRACTOR'S performance under this Agreement  
13 that: (i) identifies or can be used to identify an individual (including, without limitation,  
14 names, signatures, addresses, telephone numbers, e-mail addresses and other unique  
15 identifiers); or (ii) can be used to authenticate an individual (including, without limitation,  
16 employee identification numbers, government-issued identification numbers, passwords  
17 or PINs, financial account numbers, credit report information, biometric or health data,  
18 answers to security questions and other personal identifiers), in case of both subclauses  
19 (i) and (ii), including, without limitation, all Highly-Sensitive Personal Information.  
20 Business contact information is not by itself deemed to be Personal Information.

21 **13.2 Standard of Care:**

22 **A.** CONTRACTOR acknowledges and agrees that, in the course of its  
23 engagement by CAP, CONTRACTOR may receive or have access to Personal  
24 Information. CONTRACTOR shall comply with the terms and conditions set forth in this  
25 Agreement in its collection, receipt, transmission, storage, disposal, use and disclosure  
26 of such Personal Information and be responsible for the unauthorized collection, receipt,  
27 transmission, access, storage, disposal, use and disclosure of Personal Information  
28 under its control or in its possession by all Authorized Employees/Authorized Persons.

1 CONTRACTOR shall be responsible for, and remain liable to, CAP for the actions and  
2 omissions of all Authorized Persons that are not Authorized Employees concerning the  
3 treatment of Personal Information as if they were CONTRACTOR's own actions and  
4 omissions.

5 **B.** Personal Information is deemed to be Confidential Information of CAP and is  
6 not Confidential Information of CONTRACTOR. In the event of a conflict or inconsistency  
7 between this Section 13 and compliance with California law, the terms and conditions  
8 set forth in this Section 13 shall govern and control.

9 **C.** In recognition of the foregoing, CONTRACTOR agrees and covenants that it  
10 shall:

11 (i) keep and maintain all Personal Information in strict confidence, using such  
12 degree of care as is appropriate to avoid unauthorized access, use or disclosure;

13 (ii) use and disclose Personal Information solely and exclusively for the purposes  
14 for which the Personal Information, or access to it, is provided pursuant to the  
15 terms and conditions of this Agreement, and not use, sell, rent, transfer, distribute,  
16 or otherwise disclose or make available Personal Information for  
17 CONTRACTOR'S own purposes or for the benefit of anyone other than CAP, in  
18 each case, without CAP'S prior written consent; and

19 (iii) not, directly or indirectly, disclose Personal Information to any person other  
20 than its Authorized Employees/Authorized Persons, (an "Unauthorized Third  
21 Party"), without express written consent from CAP, unless and to the extent  
22 required by government authorities or as otherwise to the extent expressly  
23 required by applicable law, in which case, CONTRACTOR shall (i) use best efforts  
24 to notify CAP before such disclosure or as soon thereafter as reasonably possible;  
25 and (ii) require the Unauthorized Third Party that has access to Personal  
26 Information to execute a written agreement agreeing to comply with the terms and  
27 conditions of this Agreement relating to the treatment of Personal Information.

28 **13.3 Information Security:**

1           A. CONTRACTOR represents and warrants that its collection, access, use,  
2 storage, disposal and disclosure of Personal Information does and will comply with all  
3 applicable federal, state, privacy and data protection laws, as well as all other applicable  
4 regulations and directives.

5           B. At a minimum, CONTRACTOR'S safeguards for the protection of Personal  
6 Information shall include: (i) limiting access of Personal Information to Authorized  
7 Employees/Authorized Persons; (ii) securing business facilities, data centers, paper files,  
8 servers, back-up systems and computing equipment, including, but not limited to, all  
9 mobile devices and other equipment with information storage capability; (iii)  
10 implementing network, device application, database and platform security; (iv) securing  
11 information transmission, storage and disposal; (v) implementing authentication and  
12 access controls within media, applications, operating systems and equipment; (vi)  
13 encrypting Highly-Sensitive Personal Information stored on any mobile media; (vii)  
14 encrypting Highly-Sensitive Personal Information transmitted over public or wireless  
15 networks; (viii) strictly segregating Personal Information from information of  
16 CONTRACTOR or its other customers so that Personal Information is not commingled  
17 with any other types of information; (ix) implementing appropriate personnel security and  
18 integrity procedures and practices, including, but not limited to, conducting background  
19 checks consistent with applicable law; and (x) providing appropriate privacy and  
20 information security training to CONTRACTOR'S employees.

21  
22   **14.   Non-Discrimination**

23           CONTRACTOR shall not discriminate in the provision of services, allocation of  
24 benefits, accommodation in facilities, or employment of personnel on the basis of ethnic  
25 group identification, race, religious creed, color, national origin, ancestry, physical  
26 handicap, medical condition, marital status or sex in the performance of this Agreement;  
27 and, to the extent they shall be found to be applicable hereto, shall comply with the  
28 provisions of the California Fair Employment Practices Act (commencing with Section

1 1410 of the Labor Code), the Federal Civil Rights Act of 1964 (P.L. 88-352), the  
2 Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) and all other  
3 applicable laws or regulations.

4  
5 **15. Records and Documents**

6 CONTRACTOR shall make available, upon written request by any duly authorized  
7 Federal, State or County agency, a copy of this Agreement and such books, documents  
8 and records as are necessary to certify the nature and extent of the CONTRACTOR'S  
9 costs related to this Agreement. All such books, documents and records shall be  
10 maintained by CONTRACTOR for at least five (5) years following termination of this  
11 Agreement and be available for audit by CAP. CONTRACTOR shall provide to CAP  
12 reports and information related to this Agreement as requested by CAP.

13  
14 **16. Confidentiality**

15 **16.1** CONTRACTOR shall not use for personal gain or make other improper use  
16 of privileged or confidential information which is acquired in connection with this  
17 Agreement. The term "privileged or confidential information" includes but is not limited to:  
18 unpublished or sensitive technological or scientific information; medical, personnel, or  
19 security records; anticipated material requirements or pricing/purchasing actions; CAP  
20 information or data which is not subject to public disclosure; CAP operational procedures;  
21 and knowledge of selection of contractors, subcontractors or suppliers in advance of  
22 official announcement.

23 **16.2** CONTRACTOR shall protect from unauthorized disclosure, names and  
24 other identifying information concerning persons receiving services pursuant to this  
25 Agreement, except for general statistical information not identifying any person.  
26 CONTRACTOR shall not use such information for any purpose other than carrying out  
27 CONTRACTOR'S obligations under this Agreement. CONTRACTOR shall promptly  
28 transmit to CAP all third-party requests for disclosure of such information. CONTRACTOR

1 shall not disclose, except as otherwise specifically permitted by this Agreement or  
2 authorized in advance in writing by CAP, any such information to anyone other than CAP.  
3 For purposes of this Paragraph 16, identity shall include, but not be limited to, name, date  
4 of birth, social security number, symbol, identifying number, or other identifying particulars  
5 assigned to the individual, such as finger or voice print or a photograph.

6 **16.3** CONTRACTOR is subject to and shall operate in compliance with all  
7 relevant requirements contained in the Health Insurance Portability and Accountability  
8 Act (HIPAA) for sensitive patient data protection. Companies that deal with protected  
9 health information (PHI) must have physical, network, and process security measures in  
10 place and follow them to ensure HIPAA Compliance. Covered entities (anyone providing  
11 treatment, payment, and operations in healthcare) and business associates (anyone who  
12 has access to patient information and provides support in treatment, payment, or  
13 operations) must meet HIPAA Compliance. Other entities, such as subcontractors and  
14 any other related business associates must also be in compliance with HIPAA and the  
15 related laws and regulations promulgated subsequent thereto.

16  
17 **17. Administration/Contract Liaison**

18 The Executive Director or designee, shall administer this Agreement on behalf of  
19 CAP and is authorized to take any and all actions on behalf of CAP as set forth herein  
20 and to terminate services in accordance with Paragraph 5 of this Agreement. Whenever  
21 a reference is made herein to an action or approval to be undertaken by CAP, the  
22 Executive Director, or designee, is authorized to act unless this Agreement specifically  
23 provides otherwise.

24  
25 **18. Notices**

26 All correspondence and notices required or contemplated by this Agreement shall  
27 be delivered to the respective parties at the addresses set forth below, or at such other  
28 address provided by a party in writing, and are deemed submitted one (1) day after their

1 deposit in the United States Mail, postage prepaid:

2 **CAP**

3 Community Action Partnership - Riverside  
4 2038 Iowa Avenue Ste. B-102 Riverside, CA 92507  
5 Attention: Executive Director

6 **CONTRACTOR**

7 American Eco Services, Inc.  
8 8315 Miralani Drive, San Diego, CA 92126  
9 Attention: CEO

10 **19. Force Majeure**

11 If either party is unable to comply with any provision of this Agreement due to  
12 causes beyond its reasonable control, and which could not have been reasonably  
13 anticipated, such as Acts of God, acts of war, civil disorders, or other similar acts, such  
14 party shall not be held liable for such failure to comply, provided the subject party  
15 provides written notice to the other party no later than five (5) days after the  
16 commencement of such force majeure event.

17 **20. EDD Reporting Requirements**

18 In order to comply with child support enforcement requirements of the State of  
19 California, CAP may be required to submit a Report of Independent Contractor(s) form  
20 **DE 542** to the Employment Development Department ("EDD"). CONTRACTOR agrees  
21 to furnish the required data and certifications to the CAP within 10 days of notification of  
22 award of Agreement when required by the EDD. This data will be transmitted to  
23 governmental agencies charged with the establishment and enforcement of child support  
24 orders. Failure of CONTRACTOR to timely submit the data and/or certificates required  
25 may result in the contract being award to another CONTRACTOR. In the event a contract  
26 has been issued, failure of CONTRACTOR to comply with all federal and state reporting  
27 requirements for child support enforcement or to comply with all lawfully served Wage  
28 and Earnings Assignments Orders and Notice of Assignment shall constitute a material

1 breach of Agreement. If CONTRACTOR has any questions concerning this reporting  
2 requirement, please call (916) 657-0529. CONTRACTOR should also contact its local  
3 Employment Tax Customer Service Office listed in the telephone directory in the State  
4 Government section under "Employment Development Department" or access their  
5 Internet site at [www.edd.ca.gov](http://www.edd.ca.gov).

6  
7 **21. Hold Harmless/Indemnification**

8 **21.1** CONTRACTOR shall indemnify and hold harmless Community Action  
9 Partnership Riverside, the County of Riverside, its Agencies, Districts, Special Districts  
10 and Departments, their respective directors, officers, Board of Supervisors, elected and  
11 appointed officials, employees, agents and representatives (collectively, "Indemnified  
12 Parties") from any liability, claim, damage or action whatsoever, based or asserted upon  
13 any act or omission of CONTRACTOR, its officers, employees, subcontractors, agents  
14 or representatives arising out of or in any way relating to this Agreement, including but  
15 not limited to property damage, bodily injury, or death. CONTRACTOR shall defend, at  
16 its sole cost and expense, including but not limited to attorney fees, cost of investigation,  
17 defense and settlements or awards, the Community Action Partnership - Riverside, the  
18 County of Riverside, its respective Agencies, Districts, Special Districts and  
19 Departments, their respective directors, officers, Board of Supervisors, Board of  
20 Commissioners, elected and appointed officials, employees, agents and representatives  
21 in any such action or claim.

22 **21.2** With respect to any action or claim subject to indemnification herein by  
23 CONTRACTOR, CONTRACTOR shall, at its sole cost, have the right to use counsel of  
24 its own choice and shall have the right to adjust, settle, or compromise any such action  
25 or claim without the prior consent of CAP; provided, however, that any such adjustment,  
26 settlement or compromise in no manner whatsoever limits or circumscribes  
27 CONTRACTOR'S indemnification of CAP and the Indemnified Parties.

1           **21.3** CONTRACTOR'S obligations hereunder shall be satisfied when  
2 CONTRACTOR has provided to CAP the appropriate form of dismissal (or similar  
3 document) relieving CAP from any liability for the action or claim involved.

4           **21.4** The specified insurance limits required in this Agreement shall in no way  
5 limit or circumscribe CONTRACTOR'S obligations to indemnify and hold harmless CAP  
6 Riverside and Indemnified Parties.

7           **21.5** In the event there is conflict between this clause and California Civil Code  
8 Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such  
9 interpretation shall not relieve CONTRACTOR from indemnifying CAP to the fullest  
10 extent allowed by law. The indemnification and hold harmless obligations set forth in  
11 this Paragraph 21 shall survive the termination and expiration of this Agreement.

12  
13 **22. Insurance**

14           Without limiting or diminishing CONTRACTOR'S obligation to indemnify or hold  
15 CAP harmless, CONTRACTOR shall procure and maintain or cause to be maintained,  
16 at its sole cost and expense, the following insurance coverage during the term of this  
17 Agreement. As respects to the insurance section only, CAP herein refers to the  
18 Community Action Partnership - Riverside, the County of Riverside, its respective  
19 Agencies, Districts, Special Districts, and Departments, their respective directors,  
20 officers, Board of Supervisors, Board of Commissioners, employees, volunteers, elected  
21 or appointed officials, agents or representatives as Additional Insureds.

22           **A. Workers' Compensation:**

23           If the CONTRACTOR has employees as defined by the State of California, the  
24 CONTRACTOR shall maintain statutory Workers' Compensation Insurance  
25 (Coverage A) as prescribed by the laws of the State of California. Policy shall  
26 include Employers' Liability (Coverage B) including Occupational Disease with  
27 limits not less than \$1,000,000 per person per accident. The policy shall be  
28



1 endorsed to waive subrogation in favor of CAP.

2 **B. Commercial General Liability:**

3 Commercial General Liability insurance coverage, including but not limited to,  
4 premises liability, unmodified contractual liability, products and completed  
5 operations liability, personal and advertising injury, and cross liability coverage,  
6 covering claims which may arise from or out of CONTRACTOR'S performance of  
7 its obligations hereunder. Policy shall name CAP as Additional Insured. Policy's  
8 limit of liability shall not be less than \$2,000,000 per occurrence combined single  
9 limit. If such insurance contains a general aggregate limit, it shall apply separately  
10 to this agreement or be no less than two (2) times the occurrence limit.

11 **C. Vehicle Liability:**

12 If vehicles or mobile equipment are used in the performance of the obligations  
13 under this Agreement, then CONTRACTOR shall maintain liability insurance for all  
14 owned, non-owned or hired vehicles so used in an amount not less than  
15 \$1,000,000 per occurrence combined single limit. If such insurance contains a  
16 general aggregate limit, it shall apply separately to this agreement or be no less  
17 than two (2) times the occurrence limit. Policy shall name the CAP as Additional  
18 Insureds.

19 **D. Professional Liability:**

20 If required, CONTRACTOR shall maintain Professional Liability Insurance  
21 providing coverage for the CONTRACTOR'S performance of work included within  
22 this Agreement, with a limit of liability of not less than \$1,000,000 per occurrence  
23 and \$2,000,000 annual aggregate. If CONTRACTOR'S Professional Liability  
24 Insurance is written on a claims made basis rather than an occurrence basis, such  
25 insurance shall continue through the term of this Agreement and CONTRACTOR  
26 shall purchase at his sole expense either:

- 27  
28 1) An Extended Reporting Endorsement (also, known as Tail Coverage); or

1 2) Prior Dates Coverage from new insurer with a retroactive date back to  
2 the date of, or prior to, the inception of this Agreement; or,

3 3) Demonstrate through Certificates of Insurance that CONTRACTOR has  
4 maintained continuous coverage with the same or original  
5 insurer. Coverage provided under items; 1), 2) or 3) will continue as long  
6 as the law allows.

7 **E. General Insurance Provisions - All lines:**

8 1) Any insurance carrier providing insurance coverage hereunder shall be  
9 admitted to the State of California and have an A M BEST rating of not less  
10 than A: VIII (A:8) unless such requirements are waived, in writing, by the  
11 County of Riverside's Risk Manager. If the County's Risk Manager waives  
12 a requirement for a particular insurer such waiver is only valid for that  
13 specific insurer and only for one policy term.

14 2) The CONTRACTOR shall declare its insurance self-insured retention for  
15 each coverage required herein. If any such self-insured retention exceeds  
16 \$500,000 per occurrence each such retention shall have the prior written  
17 consent of the Risk Manager before the commencement of operations  
18 under this Agreement. Upon notification of self-insured retention  
19 unacceptable to CAP, and at the election of the County's Risk Manager,  
20 CONTRACTOR'S carriers shall either; 1) Reduce or eliminate such self-  
21 insured retention as respects this Agreement with CAP, or 2) Procure a  
22 bond which guarantees payment of losses and related investigations,  
23 claims administration, and defense costs and expenses.

24 3) CONTRACTOR shall cause CONTRACTOR'S insurance carrier(s) to  
25 furnish CAP with either 1) a properly executed original Certificate(s) of  
26 Insurance and certified original copies of Endorsements effecting coverage  
27 as required herein, and 2) if requested to do so orally or in writing by the  
28

1 County's Risk Manager, provide original Certified copies of policies  
2 including all Endorsements and all attachments thereto, showing such  
3 insurance is in full force and effect. Further, said Certificate(s), and policies  
4 of insurance shall contain the covenant of the insurance carrier(s) that thirty  
5 (30) days written notice shall be given to CAP prior to any material  
6 modification, cancellation, expiration or reduction in coverage of such  
7 insurance. In the event of a material modification, cancellation, expiration,  
8 or reduction in coverage, this Agreement shall terminate forthwith, unless  
9 the CAP receives, prior to such effective date, another properly executed  
10 original Certificate of Insurance and original copies of endorsements or  
11 certified original policies, including all endorsements and attachments  
12 thereto evidencing coverage's set forth herein and the insurance required  
13 herein is in full force and effect. **CONTRACTOR shall not commence**  
14 **operations until CAP has been furnished original Certificate(s) of**  
15 **Insurance and certified original copies of endorsements and if**  
16 **requested, review original of the policies of insurance including all**  
17 **endorsements and any and all other attachments as required in this**  
18 **Section. An individual authorized by the insurance carrier to do so on**  
19 **its behalf shall sign the original endorsements for each policy and the**  
20 **Certificate of Insurance. Upon CAP'S request, CONTRACTOR shall**  
21 **make available for inspection by County's Risk Manager, at a mutually**  
22 **agreeable location, copies of CONTRACTOR'S insurance policies.**

23 4) It is understood and agreed to by the parties hereto and the insurance  
24 company(s) that the CONTRACTOR'S insurance shall be construed as  
25 primary insurance, and CAP'S insurance and/or deductible and/or self-  
26 insured retentions' or self-insured programs shall not be construed as  
27 contributory.

28 5) If, during the term of this Agreement or any extension thereof, there is a

1 material change in the Scope of Work or, there is a material change in the  
2 equipment to be used in the performance of the Scope of Work or, the term  
3 of this Agreement, including any extensions thereof, exceeds five (5) years;  
4 CAP reserves the right to adjust the types of insurance and the monetary  
5 limits of liability required under this Agreement, if in the County's Risk  
6 Manager's reasonable judgment, the amount or type of insurance carried  
7 by the CONTRACTOR has become inadequate.

8 6) CONTRACTOR shall pass down the insurance obligations contained  
9 herein to all tiers of subcontractors working under this Agreement.

10 7) The insurance requirements contained in this Agreement may be met  
11 with a program(s) of self-insurance acceptable to CAP.

12 8) CONTRACTOR agrees to notify CAP of any claim by a third party or any  
13 incident or event that may give rise to a claim arising from the performance  
14 of this Agreement.

15  
16 **23. General**

17 **23.1** CONTRACTOR shall not delegate or assign any interest in this Agreement,  
18 whether by operation of law or otherwise, without the prior written consent of CAP.

19 **23.2** Any waiver by CAP of any breach of any one or more of the terms of this  
20 Agreement shall not be construed to be a waiver of any subsequent or other breach of  
21 the same or of any other term of this Agreement. Failure on the part of CAP to require  
22 exact, full and complete compliance with any terms of this Agreement shall not be  
23 construed as in any manner changing the terms or estopping CAP from enforcement of  
24 the terms of this Agreement.

25 **23.3** In the event CONTRACTOR receives payment under this Agreement  
26 which is later disallowed by CAP Riverside for nonconformance with the terms of the  
27 Agreement, CONTRACTOR shall promptly refund the disallowed amount to CAP on  
28

1 request; or at its option, CAP may offset the amount disallowed from any payment due  
2 to CONTRACTOR.

3 **23.4** CONTRACTOR shall not provide partial delivery or shipment of services  
4 or products unless specifically stated in the Agreement.

5 **23.5** CONTRACTOR shall not provide any services or products subject to any  
6 chattel mortgage or under a conditional sales contract or other agreement by which an  
7 interest is retained by a third party. The CONTRACTOR warrants that it has good title to  
8 all materials or products used by CONTRACTOR or provided to CAP pursuant to this  
9 Agreement, free from all liens, claims, or encumbrances.

10 **23.6** Nothing in this Agreement shall prohibit CAP from acquiring the same type  
11 or equivalent equipment, products, materials, or services from other sources, when  
12 deemed by CAP to be in its best interest. CAP reserves the right to purchase more or  
13 less than the quantities specified in this Agreement.

14 **23.7** CAP agrees to cooperate with CONTRACTOR in the CONTRACTOR'S  
15 performance under this Agreement, including, if stated in the Agreement, providing the  
16 CONTRACTOR with reasonable facilities and timely access to CAP data, information  
17 and personnel.

18 **23.8** CONTRACTOR warrants that during the term of this Agreement, the  
19 CONTRACTOR shall retain sufficient financial resources necessary to perform all  
20 aspects of its obligations, as described under this Agreement. Further, the  
21 CONTRACTOR warrants that there has been no adverse material change in the  
22 CONTRACTOR, parent, or subsidiary business entities, resulting in negative impact to  
23 the financial condition and circumstances of the CONTRACTOR since the date of this  
24 most recent financial statements.

25 **23.9** CONTRACTOR shall comply with all applicable Federal, State and local  
26 laws and regulations. CONTRACTOR shall comply with all applicable CAP policies and  
27 procedures. In the event that there is a conflict between the various laws or regulations  
28 that may apply, CONTRACTOR shall comply with the more restrictive law or regulation.

1           **23.10** CONTRACTOR shall comply with all air pollution control, water pollution,  
2 safety and health ordinances, statutes, or regulations, which apply to performance under  
3 this Agreement.

4           **23.11** CONTRACTOR shall comply with all requirements of the Occupational  
5 Safety and Health Administration (OSHA) standards and codes as set forth by the U.S.  
6 Department of Labor and the State of California (Cal/OSHA).

7           **23.12** This Agreement shall be governed by the laws of the State of California.  
8 Any legal action related to the performance or interpretation of this Agreement shall be  
9 filed only in the Superior Court of the State of California located in Riverside, California,  
10 and the parties waive any provision of law providing for a change of venue to another  
11 location. In the event any provision in this Agreement is held by a court of competent  
12 jurisdiction to be invalid, void, or unenforceable, the remaining provisions will  
13 nevertheless continue in full force without being impaired or invalidated in any way.

14  
15           **24.    Online Access:**

16           All of the California State Community Services and Development Department  
17 (CSD) compliance documents are available on-line on the CSD web site at:  
18 <http://www.providers.csd.ca.gov> (On-line registration is required for access to the CSD  
19 web site.)

20  
21           **25.    Lead Hazards (Pre-1979 Buildings):**

22           In Pre-1979 dwellings, CONTRACTOR is to proceed as though a lead hazard  
23 exists, performing in a manner to protect against that hazard in accordance with CSD  
24 Lead Safe Weatherization and EPA Renovations Rules.

25  
26           **26.    Nonliability of CAP Officials and CAP Riverside Employees**

27           No member, official employee, consultant, or volunteer of CAP Riverside shall be  
28 personally liable to the CONTRACTOR, or any successor in interest, in the event of any

1 default or breach by the CAP for any amount which may become due to the  
2 CONTRACTOR or to its successor, or on any obligation under the terms of this  
3 Agreement.

4  
5 **27. No Third-Party Beneficiaries**

6 The parties intend that no rights nor remedies be granted to any third party as a  
7 beneficiary of this Agreement or of any covenant, duty, obligation or undertaking  
8 established herein.

9  
10 **28. Entire Agreement**

11 This Agreement, including any attachments or exhibits, constitutes the entire  
12 Agreement of the parties with respect to its subject matter and supersedes all prior and  
13 contemporaneous representations, proposals, discussions and communications,  
14 whether oral or in writing. This Agreement may be changed or modified only by a written  
15 amendment signed by authorized representatives of both parties.

16  
17 **29. Counterparts/Digital Signature**

18 This Agreement may be executed in any number of counterparts, each of which  
19 will be an original, but all of which together will constitute one instrument. The Parties  
20 agrees to the use of electronic signatures, such as digital signatures that meet the  
21 requirements of the California Uniform Electronic Transactions Act (“CUETA”) Cal. Civ.  
22 Code §§ 1633.1 to 1633.17). The Parties further agree that the electronic signatures of  
23 the parties included in this Agreement are intended to authenticate this writing and to  
24 have the same force and effect as manual signatures. Electronic signature means an  
25 electronic sound, symbol, or process attached to or logically associated with an electronic  
26 record and executed or adopted by a person with the intent to sign the electronic record  
27 pursuant to CUETA as amended from time to time. Digital signature means an electronic  
28 identifier, created by computer, intended by the Party using it to have the same force and

1 effect as the use of a manual signature, and shall be reasonably relied upon by the  
2 Parties. For purposes of this section, a digital signature is a type of "electronic signature"  
3 as defined in subdivision (i) of Section 1633.2 of the Civil Code.

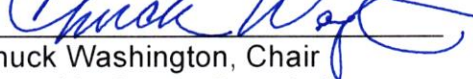
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1 IN WITNESS WHEREOF, the parties hereto have caused their duly authorized  
2 representatives to execute this Agreement as of the dates set forth below:

3  
4 **COUNTY OF RIVERSIDE:**

5 a political subdivision of the State of  
6 California, on behalf of its Community  
7 Action Partnership agency

8 By:   
9 Chuck Washington, Chair  
10 Riverside County Board of  
11 Supervisors

12 Dated: 8/27/2024

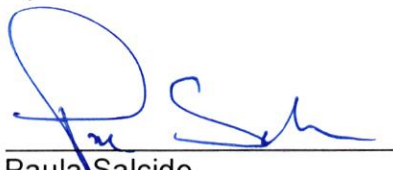
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14  
15 **ATTEST:**

16 Kimberly A. Rector  
17 Clerk of the Board

18 By:   
19 Deputy

20  
21 **APPROVED AS TO FORM:**

22 Minh C. Tran  
23 County Counsel

24 By:   
25 Paula Salcido,  
26 Deputy County Counsel

27  
28 **CONTRACTOR:**

American Eco Services, Inc., a California  
corporation

By: Melanie Moore  
Melanie K. Moore  
Chief Executive Officer

Dated: Aug 14, 2024

By: Nicole Milner  
Nicole Marie Milner  
Secretary

Dated: Aug 14, 2024











# CAP Weatherization Contract - Amercian Eco CLEAN (PR. 8.6.2024) [Final]

Final Audit Report

2024-08-14

Created:	2024-08-14
By:	George Eliseo (gceliseo@rivco.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAZJg-ssRRhR1RVoARnnpCqv8ycYz4YTta

## "CAP Weatherization Contract - Amercian Eco CLEAN (PR. 8.6. 2024) [Final]" History

-  Document created by George Eliseo (gceliseo@rivco.org)  
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2024-08-14 - 3:15:51 PM GMT
-  Email viewed by melkmoo@gmail.com  
2024-08-14 - 4:14:51 PM GMT
-  Signer melkmoo@gmail.com entered name at signing as Melanie Moore  
2024-08-14 - 4:23:42 PM GMT
-  Document e-signed by Melanie Moore (melkmoo@gmail.com)  
Signature Date: 2024-08-14 - 4:23:44 PM GMT - Time Source: server
-  Document emailed to nmilner@amerecos.com for signature  
2024-08-14 - 4:23:47 PM GMT
-  Email viewed by nmilner@amerecos.com  
2024-08-14 - 4:46:13 PM GMT
-  Signer nmilner@amerecos.com entered name at signing as Nicole Milner  
2024-08-14 - 4:46:38 PM GMT
-  Document e-signed by Nicole Milner (nmilner@amerecos.com)  
Signature Date: 2024-08-14 - 4:46:40 PM GMT - Time Source: server
-  Agreement completed.  
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1 delivery, installation, and administration of the weatherization program. All  
2 materials used in the weatherization program must meet the specification of  
the various funding authorities.

- 3 b. CONTRACTOR shall not perform any measures on any W.O. which violates  
4 the General Conditions listed in Exhibit "C", including those which would cause  
5 the total allowable cost to be exceeded, (see Exhibit "B"); or any measures  
deemed non-feasible.
- 6 c. In the event that CONTRACTOR visits a dwelling and discovers additional  
7 measures not covered in the W.O., CONTRACTOR must submit a Change  
8 Request via an Amended Work Order (A.W.O.) with updated pricing for CAP'S  
9 approval. Change Request work cannot be completed without CAP'S prior  
written approval.
- 10 d. CONTRACTORS shall apply for and obtain permits with the appropriate  
11 jurisdiction for all work performed under this contract in accordance with local  
12 jurisdiction and program guidelines requiring a permit, e.g., roofing, windows,  
13 insulation. CONTRACTORS shall arrange for inspections by appropriate local  
entities and ensure that final inspections are satisfactorily completed and  
documented.
- 14 e. CONTRACTOR is responsible for verifying all measures have been completed  
15 satisfactorily in compliance with the terms of this Agreement. The cost of this  
16 verification is not separately reimbursable and is to be included in  
17 CONTRACTOR'S loaded labor rate for measures performed. CAP reserves  
18 the right to determine what constitutes the satisfactory completion of the work  
performed by CONTRACTORS under this contract, and to require reasonable  
19 corrections or additional work above and beyond that which might be required  
by governing building codes.
- 20 f. CONTRACTOR has five (5) business days from date of receipt of CAP'S W.O.  
to complete and submit a complete quote in writing back to CAP.
- 21 g. CONTRACTOR has thirty (30) working days to complete all measures  
22 identified on the W.O. and submit a Statement of Work file (SOW) back to CAP  
23 for scheduling of Final Inspection. Failure to submit the SOW before the thirty-  
24 day deadline without proper justification, can result in CAP rescinding the job  
and payment for any measures installed.
- 25 h. Proper justification for extended job timelines must be submitted to CAP prior  
26 to the thirty-day deadline and is the responsibility of CONTRACTOR to monitor  
27 and control.  
28

- 1 8. Inspection: CAP will perform a complete inspection of CONTRACTOR'S work for  
2 compliance with the terms of this Agreement. CONTRACTOR must complete all work  
to the satisfaction of CAP before receiving payment.
- 3 9. Any items identified on inspection as incomplete by CONTRACTOR, that are not  
4 remedied through process of Inspection Corrections (see below) and completed in-  
house by CAP will be reimbursed to CAP against CONTRACTOR'S final invoice.
- 5 10. Inspection Corrections: CAP will identify any and all necessary corrections needed  
6 on a particular jobsite at the time of initial inspection and forward those to the  
7 CONTRACTOR for remediation. CONTRACTOR shall collaborate with CAP on the  
8 scheduling of the listed corrections. CAP will verify corrections with the  
9 CONTRACTOR at the jobsite, on the day scheduled.
- 10 11. CONTRACTOR has five (5) business days to either complete corrections or inform  
11 CAP of necessity for additional time to complete corrections.
- 12 12. In the event additional corrections remain post meeting for an onsite Correction  
13 Verification appointment and/or if CONTRACTOR fails to schedule a Correction  
14 Verification appointment with CAP, CAP will complete a follow-up inspection and a  
15 \$25 fee will be charged against CONTRACTOR'S final invoice for each additional  
16 follow-up inspection.
- 17 13. File Submission: CONTRACTOR agrees to follow all procedures that identify how to  
18 properly complete and submit all required paperwork and billing files, according to  
19 policy and procedures to be provided by CAP, (the Subcontractor Billing Procedures).
- 20 14. Lead Safe Work Practice and EPA Renovator Certification: Participating  
21 CONTRACTORS and all crew members performing work on a W.O. from CAP must  
22 attend training and receive certification in Lead Safe Work Practices (LSWP) and EPA  
23 Renovator. Individuals who are not certified shall not be permitted to supervise and/or  
24 work on the homes to be weatherized. CAP reserves the right to require recertification  
of LSWP/EPA of any of CONTRACTORS' employees or those individuals who  
perform work or services for the CONTRACTOR on a W.O. from CAP.
- 25 15. Warranty: CONTRACTOR hereby warrant its work against all deficiencies and  
26 defects in workmanship and materials for the full term required by applicable law or  
27 the term that is given by the suppliers or manufacturers of any materials involved, but  
28 in no event less than one (1) year and or outlined by WIS, Field, and CSD from the  
date of substantial completion of each job.
16. CONTRACTOR shall at its own cost and expense promptly amend and make good  
any defective workmanship and materials to the entire approval and acceptance of  
CAP. Additional cost incurred (mileage, crew hourly wage, additional material, etc.),  
will be made at the expense of the CONTRACTOR.

1 17. In the event CAP must remedy defects or make changes, CAP may offset against  
2 any sums due or to become due to the CONTRACTOR, the costs incurred.

3 18. Management and Oversight: CAP is responsible to the CSD for performance of all  
4 LIHEAP, ECIP and DOE Weatherization contracts and their use for clients in  
5 Riverside County. CAP will perform oversight integration of CONTRACTOR efforts  
6 with in-house efforts in a manner to ensure that all work performed on behalf of CAP  
7 follows CSD guidelines, Weatherization installation Standards (WIS), Field Guide and  
8 State/Local Building Safety Codes; is cost effective and conducted in a business-like  
9 manner at all times providing maximum client benefit derived from this Agreement  
10 and that the terms and conditions of the underlying Agreements are fully met. CAP  
11 shall provide consultation and technical assistance in carrying out the terms of this  
12 Agreement. CAP will provide oversight of CONTRACTOR efforts to include regular  
13 management reviews, review of documentation and other efforts deemed necessary  
14 to obtain quality subcontract performance. CAP will provide clarification of any  
15 Agreement terms and conditions as requested by CONTRACTOR, as well as updated  
16 information provided by funding source directly related to contractual performance  
17 and services.

18 19. Licensing Requirements: CONTRACTOR shall possess and maintain an active Class  
19 "B" General Building Contractor License, issued by the Contractors' State License  
20 Board (CSLB) in the name of the agency/qualifying individual and also:

- 21 a. Fulfill the requirement of and receive certification pursuant to the Toxic  
22 Substances Control Act (TSCA) Section 402;
- 23 b. Special licensing may also be required for the installation and or repair of  
24 appliances, space heaters, water heaters, solar, and Central HVAC units, if  
25 two or more weatherization measures are not installed in a single unit.  
26 Electrical wiring upgrade/replacement and knob and tube wiring certification  
27 will always require a C-10 license;
- 28 c. Possess all applicable licenses as required by the CSLB to carry out the  
installation and or repairs of Central HVAC Systems, Furnaces and Boilers;
- d. CONTRACTOR is responsible for ensuring that all its subcontractors have an  
active license for their specialty and are in good standing for the duration of  
this Agreement; and
- e. CONTRACTOR shall notify CAP when any changes in licensing occur.

29 20. CONTRACTOR whose work potentially disturbs lead paint shall be an EPA Certified  
30 firm and have EPA Certified Renovators on staff.

1 21. Completion Timelines: CONTRACTOR shall communicate with CAP to coordinate  
2 post-inspection, Correction Verification appointments as necessary.

3 22. CONTRACTOR has five (5) business days to complete Inspection Corrections or  
4 inform CAP of necessity for additional time by providing documented justification.

5 23. CAP will process completed files for billing within thirty (30) business days after final  
6 invoice is requested and received. CONTRACTOR reserves the right to contact CAP  
7 at any point following the thirty-business day timeline of final invoice submission to  
8 inquire about payment status. Note: Failure to complete assigned dwellings within the  
9 required time frames may result in fewer job assignments or even work stoppage,  
10 current assignments being reassigned, and/or contract termination.

11 24. Certifications and Training - Lead Safe Work Practice and EPA Renovator  
12 Certification: Participating CONTRACTORS and all crew members performing work  
13 on a W.O. from CAP must attend training and receive certification in Lead Safe Work  
14 Practices (LSWP) and EPA Renovator. Individuals who are not certified will not be  
15 permitted to supervise and/or work on the homes to be weatherized. CAP reserves  
16 the right to require recertification of LSWP/EPA of any of CONTRACTORS'  
17 employees or those individuals who perform work or services for CONTRACTOR on  
18 a W.O. from CAP.

19 25. Other Certifications and Training: All participating crew members (CONTRACTOR  
20 employees and those individuals who perform work or services for CONTRACTOR  
21 on a W.O. from CAP) shall be trained as required by CSD; following a CSD-approved  
22 training curriculum. Training coursework must be successfully completed according  
23 to the terms of each course. Certificates of completion shall be issued by the CSD-  
24 approved training entity upon successful completion of each course. Certificates of  
25 completion shall be kept submitted to CAP and records must be kept by  
26 CONTRACTOR in the event or monitoring visit performed by CSD. All training records  
27 maintained in accordance with the certification and training requirements by CSD.  
28 Also, the following training will be required:

a. Within 30 days of employment, jobsite employees of CONTRACTOR shall  
receive Worksite Safety, Environmental Hazard Awareness and Lead-Safe  
Weatherization Training. No crew member, crew leader, worker or supervisor  
shall be allowed to enter or weatherize a dwelling unit until the required  
Worksite Safety, Environmental Hazards Awareness and Lead-Safe  
Weatherization Training has been completed.

b. Within ninety (90) days of employment, all weatherization employees of  
CONTRACTOR shall receive Basic Weatherization Training.

c. When job duties include duct leakage and shell leakage diagnostics,  
weatherization employees of CONTRACTOR shall receive Duct

1 Leakage/Shell Leakage Diagnostic Training. No employee of CONTRACTOR  
2 shall perform diagnostic testing without having completed the required training.

3 d. Subsequent to successful completion of the Duct Leakage/Shell Leakage  
4 Diagnostic Training, CONTRACTOR employees are required to participate in  
5 a monitored field practice under the supervision of CAP, CAP authorized third-  
6 party inspector and/or training provider to further evaluate employee  
7 knowledge and skill in this area of diagnostic testing.

8 e. Any CONTRACTOR failing to demonstrate appropriate knowledge and skills  
9 in this competency will be required to complete additional training to enhance  
10 deficient skill and knowledge and will be prohibited from performing this activity  
11 until the completion of required training.

12 f. No employee of CONTRACTOR shall perform Combustion Appliance Safety  
13 checks without having completed the required CSD-approved training.

14 g. Subsequent to the training, CONTRACTOR'S employees are required to  
15 participate in a monitored field practice under the supervision of CAP or CAP  
16 authorized third-party inspector and/or training provider to further evaluate  
17 employee knowledge and skill in this area of diagnostic testing.

18 h. Any CONTRACTOR failing to demonstrate appropriate knowledge and skills  
19 in this competency will be required to complete additional training to enhance  
20 deficient skill and knowledge and will be prohibited from performing this activity  
21 until the completion of required training.

22 i. CAP will cover training expenses in CSD-certified facilities provided that the  
23 CONTRACTOR covers any lodging/accommodations needed.

24 26. Equipment Calibration Records: Calibration records shall be maintained and made  
25 available for inspection request, as follows:

26 a. CSD Form 785 – Carbon Monoxer Analyzer Calibration Log

27 b. CSD Form 786 – Manometer Calibration Log

28 c. Blower Door Calibration Log

d. Duct Blaster DG 700 (or equivalent) Calibration Log



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**EXHIBIT "B"**  
**CONTRACTOR'S FORM OF QUOTE – PRICING MATRIX**  
**(behind this page)**

**CONTRACTOR'S PRICE QUOTES  
FOR WEATHERIZATION AND EHCS ACTIVITIES**

**2023 LIHEAP**

	A	B	C	D	E	F
1	Line #	Measure	Type	Allowable Measures by Funding Source	CONTRACTOR'S QUOTE	Quantity Limits Per Job
3	<b>SECTION: Assessments/Diagnostics</b>					
4	1	Dwelling Assessment	With Attic	LIHEAP	\$ 142.50	1 assessment per dwelling unless expired
5			Without Attic		\$ 120.00	
6			Modified Assessment (for Reworked dwellings only)		\$120.00	
7	2	REM/Design Energy Audit		LIHEAP	\$ 395.00	1 audit per dwelling
8	3	Combustion Appliance Safety Test	Pre	LIHEAP, ECIP EHCS	\$ 65.00 (Pre Test)	No maximum at this time
9			Post		\$ 95.00 (Post Test)	
10	4	Blower Door Test	Pre	LIHEAP	\$ 175.00 (Pre Test)	No maximum at this time
11			Post		\$ 85.00 (Post Test)	
12	5	Duct Leakage Test	Pre	LIHEAP, ECIP EHCS	\$ 110.00 (Pre Test)	No maximum at this time
13			Post		\$ 55.00 (Post Test)	
14	6	Environmental Testing		LIHEAP, ECIP EHCS	\$ Pass Thru Cost	No maximum at this time
15	7	HERS Rater		LIHEAP, ECIP EHCS		No max. quantity
16	8	Permits		LIHEAP, ECIP EHCS		No max. quantity
17	9	Contractor Post-Weatherization Inspection	Contractor Post Inspection	LIHEAP	\$ 95.00	1 inspection per dwelling unless return visit is necessary to inspect additional work performed
18			Sub-contracted Post Inspection		\$ 140.00 (per inspection)	
19	<b>SECTION: Health and Safety</b>					
20	1	Carbon Monoxide Alarm	Lithium Battery	LIHEAP, ECIP EHCS	\$ 71.00 (per alarm)	1 occurrence per dwelling; no maximum quantity
21	2	Smoke Alarm	Lithium Battery or Hard-Wired	LIHEAP, ECIP EHCS	\$ 71.00 (per alarm)	1 occurrence per dwelling; minimum quantity as required by code
22	3	Cooking Appliance Repair, Free Standing Range or Cook Top	Electric	LIHEAP	\$ 95.00 (per dwelling) +materials	1 repair or replacement per dwelling
23			Natural Gas and Propane			
24			Other Types Not Listed			
25	4	Cooking Appliance Replacement, Free Standing Range or Cook Top	Electric	LIHEAP	\$ 1,198 (per dwelling)	1 repair or replacement per dwelling
26			Natural Gas and Propane			
27			Other Types Not Listed			
28	5	Cooking Appliance Repair, Built-In Single Wall Oven	Electric 24"	LIHEAP	\$ 95.00 (per appliance) +materials	1 repair or replacement per dwelling
29			Electric 30"		\$ 95.00 (per appliance) +materials	
30			Gas 24"		\$ 95.00 (per appliance) +materials	
31	6	Cooking Appliance Replacement, Built-In Single Wall Oven	Electric 24"	LIHEAP	\$ 980.00 (per appliance)	1 repair or replacement per dwelling
32			Electric 30"		\$ 1,098.00 (per appliance)	
33			Gas 24"		\$ 1,098.00 (per appliance)	
34	7	Cooling Repair	AC Wall/Window	LIHEAP, ECIP EHCS	\$ 95.00 (per dwelling) +materials	1 repair or replacement per dwelling
35			Evaporative Cooler		\$ 95.00 (per dwelling) +materials	
36			FAU (Split System)		\$ 95.00 (per dwelling) +materials	
37			Multi-Unit Central System (serving more than one MUD)		\$ 95.00 (per dwelling) +materials	1 repair or replacement per MUD unit

**CONTRACTOR'S PRICE QUOTES  
FOR WEATHERIZATION AND EHCS ACTIVITIES**

**2023 LIHEAP**

	A	B	C	D	E	F
1	Line #	Measure	Type	Allowable Measures by Funding Source	CONTRACTOR'S QUOTE	Quantity Limits Per Job
38	8	Cooling Replacement	AC Wall/Window	LIHEAP, ECIP EHCS	\$ 2,095.00 (per dwelling)	1 repair or replacement per dwelling
39			Evaporative Cooler Roof		\$ 2,595.00 (per dwelling)	
40			Evaporative Cooler Window/Wall		\$ 6,250.00 (per dwelling)	
41			Forced Air Unit (Split System)		\$ 6,900.00 (per dwelling)	
42			Multi-Unit Central System (serving more than one MUD)		\$ 6,900.00 (per dwelling)	
43	9	CVA Venting	All Other	LIHEAP, ECIP EHCS	\$ 95.00 (per dwelling) +materials	1 repair or replacement per dwelling
44			Louver Doors Only		\$ 450.00 (per dwelling)	
45	10	Environmental Hazard Work		LIHEAP, ECIP EHCS	\$ 5,000 Max at cost	As required by EPA
46	11	Heating Source Repair	Exterior Wall Direct Vent, Interior Wall and Floor Furnace	LIHEAP, ECIP EHCS	\$ 380.00 (per dwelling) +materials	1 repair or replacement per dwelling
47			Forced Air Unit (Split System)		\$ 380.00 (per dwelling) +materials	
48			Multi-Unit Central System (serving more than one MUD)		\$ 425.00 (per dwelling) +materials	1 repair or replacement per MUD unit
49			Heat Pump / Other Types Not Listed		\$ 380.00 (per dwelling) +materials	1 repair or replacement per dwelling
50			Package (Dual Pack)		\$ 380.00 (per dwelling) +materials	
51			Wood-Fueled		\$ 595.00 (per dwelling) +materials	
52	12	Heating Source Replacement	Exterior Wall Direct Vent, Interior Wall and Floor Furnace	LIHEAP, ECIP EHCS	\$ 4,600.00 (per dwelling)	1 repair or replacement per dwelling
53			Forced Air Unit (Split System)		\$ 6,395.00 (per dwelling)	
54			Multi-Unit Central System (serving more than one MUD)		\$ 6,600.00 (per dwelling)	1 repair or replacement per MUD unit
55			Heat Pump / Other Types Not Listed		\$ 7,595.00 (per dwelling)	1 repair or replacement per dwelling
56			Package (Dual Pack)		\$ 8,495.00 (per dwelling)	
57			Wood-Fueled		\$ 9,950.00 (per dwelling)	
58	13	Water Heater Repair	Electric	LIHEAP, ECIP EHCS	\$ 95.00 (per dwelling) +materials	1 repair or replacement per dwelling
59			Gas & Propane			
60			Mobile Home		\$ 142.50 (per MUD) +materials	1 repair or replacement per MUD unit
61			Multi-Unit Central System (serving more than one MUD)			

**CONTRACTOR'S PRICE QUOTES  
FOR WEATHERIZATION AND EHCS ACTIVITIES**

**2023 LIHEAP**

	A	B	C	D	E	F
1	Line #	Measure	Type	Allowable Measures by Funding Source	CONTRACTOR'S QUOTE	Quantity Limits Per Job
62	14	Water Heater Replacement	Electric	LIHEAP, ECIP EHCS	\$ 3,400.00 (per dwelling)	1 repair or replacement per dwelling
63			Heat Pump - 50 Gallon		\$ 3,950.00 (per dwelling)	
64			Heat Pump - 65 Gallon		\$ 4,395.00 (per dwelling)	
65			Heat Pump - 80 Gallon		\$ 4,495.00 (per dwelling)	
66			Natural Gas and Propane		\$ 3,195.00 (per dwelling)	
67			Mobile Home			
68			Multi-Unit Central System (serving more than one MUD)		\$ 5,400.00 (per dwelling)	1 repair or replacement per MUD unit
69	<b>SECTION: Mandatory</b>					
70	1	Attic Ventilation		LIHEAP	\$ 595.00 (per dwelling)	1 occurrence per dwelling; no maximum quantity
71	2	Ceiling Insulation	R-value 0-11	LIHEAP	\$ 1.19 (per sq ft)	1 occurrence per dwelling; no maximum quantity
72			R-value 12-19		\$ 1.42 (per sq ft)	
73			R-value 20-30		\$ 1.81 (per sq ft)	
74			R-value 31-38		\$ 2.03 (per sq ft)	
75	3	Door, Exterior (All Other Types)	Repair	LIHEAP	\$ 142.50 (per door) +materials	1 occurrence per dwelling, no maximum quantity
76			Replacement - Catastrophic leaks only		\$ 475.00 (per door)	
77	4	Door, Sliding Glass	Repair - 72" x 80" and smaller	LIHEAP	\$ 142.50 (per door) +materials	1 repair per dwelling
78			Repair - Greater than 72" x 80"		\$ 190.00 (per door) +materials	
79			Replacement - 72" x 80" and smaller - Catastrophic leaks only		\$ 1550.00 (per door)	1 replacement per dwelling
80			Replacement - Greater than 72" x 80" - Catastrophic leaks only		\$ 1795.00 (per door)	
81	5	Duct Insulation		LIHEAP	\$ 8.75 (per liner ft)	1 occurrence per dwelling; no maximum quantity
82	6	Duct Repair and Replacement		LIHEAP, ECIP EHCS	\$ 216.00 (per duct run)	1 repair or replacement per dwelling
83	7	Filter Replacement	Air Conditioning	LIHEAP	\$ 30.00 (per dwelling)	1 occurrence per dwelling; no maximum quantity
84			Furnace			
85	8	Hot Water Flow Restrictor	Faucet Restrictor	LIHEAP	\$ 10.00 (per restrictor)	1 occurrence per dwelling; no maximum quantity
86			Low Flow Handheld Showerhead		\$ 42.50 (per showerhead)	
87			Low Flow Showerhead		\$ 30.00 (per showerhead)	
88	9	HVAC Blower Upgrades	ECM Blower Motor	LIHEAP	\$ 495.00 (per dwelling)	1 replacement per dwelling
89			Efficient Fan Controller		\$ 192.00 (per dwelling)	
90	10	Infiltration Reduction (Excludes both repair and replacement of Doors and Windows)		LIHEAP	\$ 375.00 (per dwelling) +material	1 occurrence per dwelling; no maximum quantity
91	11	Kitchen Exhaust Installation, Repair & Replacement*	Range Hoods, Wall/Ceiling Mounts	LIHEAP	\$ 192.50 (per dwelling)	1 repair or replacement per dwelling
92	12	Kneewall Insulation	R-value 0-11	LIHEAP	\$ 1.39 (per sq ft)	1 occurrence per dwelling; no maximum quantity
93			R-value 12-19		\$ 1.42 (per sq ft)	
	A	B	C	D	E	F

CONTRACTOR'S PRICE QUOTES  
FOR WEATHERIZATION AND EHCS ACTIVITIES

2023 LIHEAP

1	Line #	Measure	Type	Allowable Measures by Funding Source	CONTRACTOR'S QUOTE	Quantity Limits Per Job	
94	13	Lighting	LED Downlight Retrofit Kits	LIHEAP	\$ 35.00 (per kit)	1 replacement per fixture / luminaire	
95			LED Hard-Wired Lights - Exterior - Porch Light		\$ 42.00 (per luminaire)		
96			LED Hard-Wired Lights - Exterior - Security Light		\$ 59.00 (per luminaire)		
97			LED Hard-Wired Lights - Interior - Ceiling		\$ 52.00 (per luminaire)		
98			LED Hard-Wired Lights - Interior - Vanity		\$ 72.50 (per luminaire)		
99			LED Hard-Wired Lights - Interior - Wall/Sconce		\$ 49.50 (per luminaire)		
100			LED Night Lights		\$ 9.00 (per night light)		1 occurrence per dwelling; no maximum quantity
101			LED Replacement Bulbs		\$ 8.50 (per bulb)		1 replacement per fixture / luminaire
102			LED Torchiere Lamp Replacement		\$ 75.00 (per dwelling)		2 lamps per dwelling
103	14	Limited Home Repair		LIHEAP ECIP EHCS	\$ 95.00 (per hour) +materials	1 occurrence per dwelling	
104	15	Low Flow Toilet	Replacement (only when required by local building department permit process)	LIHEAP, ECIP EHCS	\$ 310.00 (per toilet)	1 occurrence per dwelling; quantity determined by permit requirements	
105	16	Mechanical Ventilation (if required by blower door diagnostics and MV calculations)	Balanced System	LIHEAP	\$ 2095.00 (per dwelling)	1 occurrence per dwelling; no maximum quantity	
106			Exhaust System		\$ 1500.00 (per dwelling)		
107			Supply System		\$ 1500.00 (per dwelling)		
108	17	Microwave Oven		LIHEAP	\$ 135.00 (per oven)	1 oven per dwelling	
109	18	Refrigerator Replacement	19 cu. ft. and below	LIHEAP	\$ 1595.00 (per appliance)	1 replacement per dwelling	
110			Over 19 cu. ft.		\$ 1895.00 (per appliance)		
111	19	Thermostat	Manual	LIHEAP, ECIP EHCS	\$ 69.00 (per thermostat)	2 thermostat per dwelling	
112			Programmable - Standard		\$ 150.00 (per thermostat)		
113			Smart		\$ 250.00 (per thermostat)		
114	20	Water Heater Insulation		LIHEAP	\$ 65.00 (per blanket)	1 blanket per dwelling	
115	21	Water Heater Pipe Insulation		LIHEAP	\$ 3.90 (per liner ft)	1 occurrence per dwelling; no maximum quantity	
116	22	Whole House Fan		LIHEAP	\$ 1550.00 (per dwelling)	1 occurrence per dwelling	

CONTRACTOR'S PRICE QUOTES  
FOR WEATHERIZATION AND EHCS ACTIVITIES

2023 LIHEAP

	A	B	C	D	E	F
1	Line #	Measure	Type	Allowable Measures by Funding Source	CONTRACTOR'S QUOTE	Quantity Limits Per Job
117	23	Window	Repair - Catastrophic leaks only	LIHEAP	\$ 750.00 (per dwelling)	1 occurrence per dwelling; no maximum quantity
118			Replacement - Catastrophic leaks only		\$ 3950.00 (per dwelling)	
119	24	Vacancy Sensor Switch		LIHEAP	\$ 68.00 (per sensor)	1 occurrence per dwelling; no maximum quantity
120	<b>SECTION: Optional</b>					
121	1	Ceiling Fan		LIHEAP	\$ 239.00 (per fan)	1 occurrence per dwelling; no maximum quantity
122	2	Clothes Washer Replacement	Front Loading ≤ 6.0 cu. Ft	LIHEAP	\$ 1400.00 (per appliance)	1 replacement per dwelling
123			Top Loading ≤ 6.0 cu. ft		\$ 1295.00 (per appliance)	
124	3	Clothes Dryer Replacement	Electric - < 7.3 cu. ft	LIHEAP	\$ 1098.00 (per appliance)	1 replacement per dwelling
125			Electric ≥ 7.3 cu. ft		\$ 1175.00 (per appliance)	
126			Gas < 7.3 cu. ft		\$ 1198.00 (per appliance)	
127			Gas ≥ 7.3 cu. ft		\$ 1275.00 (per appliance)	
128	4	Dishwasher Replacement	≤ 24.0 In	LIHEAP	\$ 998.00 (per appliance)	1 replacement per dwelling
129	5	Exterior Water Pipe Wrap		LIHEAP	\$ 4.95 (per liner ft)	1 occurrence per dwelling; no maximum quantity
130	6	Floor Foundation Venting		LIHEAP	\$ 475.00 (per dwelling)	1 occurrence per dwelling; no maximum quantity
131	7	Floor Insulation	> 36" clearance	LIHEAP	\$ 2.60 (per sq ft)	1 occurrence per dwelling; no maximum quantity
132			< 36" clearance		\$ 3.10 (per sq ft)	
133	8	Hot Water Flow Restrictor	Thermostatic Shower Valve (TSV only)	LIHEAP	\$ 58.00 (per valve)	1 occurrence per dwelling; no maximum quantity
134			Thermostatic Low Flow Showerhead (TSV + LFSH Combo)		\$ 72.00 (per showerhead TSV combo)	
135	9	Mechanical Ventilation	Balanced System	LIHEAP	\$ 2095.00 (per dwelling)	1 occurrence per dwelling
136			Exhaust System		\$ 1500.00 (per dwelling)	
137			Supply System		\$ 1500.00 (per dwelling)	
138	10	Power Strips	Tier 2 Advanced	LIHEAP	\$ 78.00 (per strip)	1 occurrence per dwelling; no maximum quantity
139	11	Shade screens		LIHEAP	\$ 900.00 (per dwelling)	1 occurrence per dwelling; no maximum quantity



**EXHIBIT "C"**  
**GENERAL CONDITIONS**  
**(behind this page)**

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**GENERAL CONDITIONS**  
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## GENERAL CONDITIONS OF THE CONTRACT

### ARTICLE 1    GENERAL PROVISIONS

#### 1.1            **DEFINITIONS**

**THE CONTRACT DOCUMENTS** - The Contract Documents consist of the Contract, the Performance Bond and Payment Bond and any other bond required by the Contract, the drawings, the specifications, addenda issued prior to execution of the Contract, and all modifications thereto.

**THE CONTRACT** - The Contract Documents form the Contract. The Contract represents the entire and integrated agreement between the parties hereto, and supersedes all prior negotiation, representations, or agreements, either written or oral, including the bidding documents.

**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** - Acceptance is when CAP determines all of the Contract 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 CAP. Upon receipt of the Notice of Completion, the Contractor will be relieved of the duty of protecting the work, and CAP will initiate final settlement and payment.

**ARCHITECT** - Architect means the person or other entity engaged by CAP to perform architectural, engineering, design, and other services related to the work as provided for in the contract. When CAP uses an engineer to act in this capacity, the terms "architect" and "engineer" shall be synonymous. The Architect shall serve as a technical representative of the Contracting Officer. The Architect's authority is as set forth elsewhere in this contract.

**BENEFICIAL OCCUPANCY** - The right of the CAP 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.

**CHANGE ORDER** - A Change Order is the document issued by CAP authorizing any change or adjustment to the Contract Documents in accordance with Article 19 of this Contract.

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

**CONTRACTING OFFICER** - the person delegated the authority by CAP to enter into, administer, and/or terminate this contract and designated as such in writing to the Contractor. The

term includes any successor Contracting Officer and any duly authorized representative of the Contracting Officer also designated in writing. The Contracting Officer shall be deemed the authorized agent of CAP in all dealings with the Contractor.

**CONTRACTOR'S AGENT** - The representative of the Contractor, approved by CAP, who shall be present at the Work and be authorized to receive and act upon instructions from CAP 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 and entering into the contract with CAP. 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.

**DAY** - The use of "day" herein means calendar day and shall include every day including Saturdays, Sundays, and legal holidays.

**DIRECTOR** - The use of "Director" shall mean the Director of Housing and Workforce Solutions, who acts as the Director of CAP or his/her designated representative.

**CAP** - means the Community Action Partnership, an agency of the County of Riverside's Department of Housing and Workforce Solutions, organized under applicable state laws which are a party to this contract.

**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 at that point in the Contract when the Contractor has completed all Work required in the Contract Documents. The time for issuance shall be determined by CAP through a final inspection. The NOC shall be issued by the Board of Supervisors.

**NOTICE TO PROCEED** - The Notice to Proceed is the written notification from CAP giving the Contractor notice to commence with the project. The Notice to Proceed will specify project details such as the mobilization start date, construction start date, and Work completion date.

**PROJECT** - means the entire project, whether construction or rehabilitation, the work for which is provided for in whole or in part under this contract.

**REQUEST FOR INFORMATION** - (RFI) The form and procedure established for communication between the Contractor and CAP to clarify or interpret the Contract Documents.

**REQUEST FOR QUOTATION** - (RFQ) A document consisting of supplemental details, instruction, or information issued by the Architect, through CAP, for the purpose of obtaining price quotations for possible changes in the Work.

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

**SPECIFICATIONS** - The term "Specifications" means that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the Work.

**SUBCONTRACTOR** - The term "Subcontractor" means a person or firm that has a contract with Contractor or with another subcontractor to perform a portion of the Work. Unless otherwise specifically provided, the term Subcontractor includes Subcontractors of any tier, suppliers, manufacturers, and distributors. The term Subcontractor is referred to throughout the Contract Documents as if singular in number.

**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.

## **1.2 AUTHORITIES AND LIMITATIONS**

**1.2.1** The Board of Supervisors alone have the power to bind CAP and to exercise the rights, responsibilities, authorities, and functions vested therein by the 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 CAP, with the exception of the assignments to CAP 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 CAP 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 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 CAP 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 CAP RESPONSIBILITIES**

- a. CAP 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 or other local jurisdictions within the County of Riverside, paying all fees in connection therewith.
- b. CAP 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 CAP.
- b. Exclusive of off-site inspection specified herein to be CAP'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 CAP, the Contractor shall submit all licenses, permits, and certificates of inspection to the CAP.

## **1.6 SEPARATE CONTRACTS**

- 1.6.1** CAP 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 CAP or any other contractor engaged by CAP at the site of the Work. In case of disagreement regarding such use, the matter shall be referred to CAP whose decision relative to said use shall govern.
- 1.6.2** The Contractor shall afford CAP 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 CAP or any separate contractor, the Contractor shall inspect and promptly report to CAP 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 CAP'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 CAP because of any damage alleged to have been so sustained, the Contractor agrees to indemnify and defend CAP in such proceedings with CAP retaining the right to select and hire independent counsel for CAP 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 CAP'S AUTHORIZED REPRESENTATIVE, INSPECTOR(S), & ARCHITECT**

### **1.7.1 AUTHORIZED REPRESENTATIVE**

CAP 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 CAP.

### **1.7.2 CONTRACTING OFFICER**

The Contracting Officer or authorized designee 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 Contracting Officer is not authorized to make changes in the Contract Documents. On the basis of his observations, he shall keep CAP informed as to the progress of the Work. The Contracting Officer 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 Contracting Officer be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

### **1.7.3 ARCHITECT**



- a. CAP has retained an Architect for this project. The Architect will advise and consult with CAP, and CAP will issue instructions to the Contractor. The Architect will be requested to interpret the requirements of the Contract. When requested by CAP, 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.

## **ARTICLE 2    BONDS AND INSURANCE**

### **2.1    BIDS OF \$25,000 OR LESS**

**2.1.1** If the total amount bid on the Work is \$25,000 or less, the payment bond and performance bond are not required, provided that one payment of all compensation shall be made following Acceptance of all work.

### **2.2    BONDS**

#### **2.2.1    GENERAL REQUIREMENTS**

a. Before commencing any Work under this Contract, the Contractor shall file two of each bond with the CAP. 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 CAP that the surety or sureties are insufficient. Cost of bonds shall be included in the bid price.

#### **2.2.2    PERFORMANCE BOND**

The successful bidder shall deliver to CAP an executed Performance Bond on the attached form in an amount equal to 100% of the accepted bid as security for the faithful performance of the Contract.

#### **2.2.3    PAYMENT BOND**

The successful bidder shall deliver to CAP an executed Payment Bond on the attached form in an amount equal to 100% of the accepted bid as security for the payment of all persons performing labor and furnishing

materials in connection with the Work.

## **2.3 INSURANCE**

### **2.3.1 GENERAL REQUIREMENTS**

Before commencing this Work under the Contract, and without limiting or diminishing CONTRACTOR'S obligation to indemnify and hold the CAP 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.

### **2.3.2**

#### **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 be endorsed, if applicable, to contain a Waiver of Subrogation in favor of the CAP. Pursuant to Section 3700 of the Labor Code of the State of California, Contractor shall file with the CAP 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."

### **2.3.3 COMMERCIAL GENERAL LIABILITY:**

Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations if applicable, personal and advertising injury, and cross liability coverage, covering claims 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 CAP, County of Riverside, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insured, and contain a Waiver of Subrogation in favor of the CAP and County. Policy limits shall not be less than \$1,000,000 per occurrence combined single limit. 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.

### **2.3.4 VEHICLE LIABILITY:**

If Contractor's vehicles or licensed mobile equipment are used in the performance of the obligations under the contract, or used in any manner on behalf of the CAP, 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. If such insurance contains a general aggregate limit, it shall apply separately to this contract or be no less than two (2) times the occurrence limit. Policy shall name the CAP, County of Riverside, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents, or representatives as Additional Insured, and provide a Waiver of Subrogation in favor of the CAP and County.

### **2.3.5**

#### **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 CAP property, or used in any way connected with the accomplishment of the Work performed in this

contract.

### **2.3.6 COURSE OF CONSTRUCTION INSURANCE**

Contractor shall provide All Risk Builder's Risk (Course of Construction) insurance, including earthquake and flood if in an earthquake or flood zone (required on financed or bond financing arrangements), covering the CAP, the Contractor and every subcontractor of every tier for the entire project including property to be used in the construction of the project while such property is at off site storage locations or while in transit. Policy shall include coverage for collapse, faulty workmanship, debris removal, expediting expense, Fire Department Service charges, valuable papers and records, trees, grass, shrubbery and plants. If scaffolding, falsework and temporary buildings are insured separately by the CONTRACTOR or others, evidence of such separate coverage shall be provided to CAP prior to the start of the work. Policy shall be written on a completed value form. Policy shall also provide coverage for temporary structures (onsite offices, etc.), fixtures, machinery and equipment being installed as part of the construction project.

CONTRACTOR shall provide a bid price with Course of Construction insurance as outlined herein, and shall also separately provide the cost of the Course of Construction insurance and deductible; and shall declare all terms, conditions, coverages and limits upon request of CAP **RETAINS THE RIGHT TO CHOOSE TO USE ITS OWN COURSE OF CONSTRUCTION PROGRAM.** If the CAP program is chosen, CONTRACTOR shall assume the cost of any and all applicable policy deductibles (currently \$50,000 per occurrence), and shall insure its own machinery, equipment, tools, etc., from any loss of any nature whatever. If CAP elects the CONTRACTOR's All Risk Builder's Risk Program, CONTRACTOR shall be responsible for any and all policy deductibles.

### **2.3.7 GENERAL INSURANCE PROVISION – ALL LINES:**

- a. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and shall have an A.M. BEST rating of not less than an A:VIII unless such requirements are waived, in writing, by the Risk Manager. If the Risk Manager waives a requirement for a particular insurer, such waiver is only valid for that specific insurer and only for one policy term.
- b. The Contractor must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceeds \$500,000 per occurrence, each such retention shall have the prior written consent of the Risk Manager before he commencement of operations under this contract. Upon notification of self-insured retention unacceptable to the CAP, and at the election of the Risk Manager, Contractor's carriers shall either 1) reduce or eliminate such self-insured retention as respects this contract, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.
- c. Contractor shall cause its insurance carrier(s) to furnish the CAP 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 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 CAP, County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Commissioners, Board of Supervisors, elected and appointed officials, employees, agents and 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 CAP 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 CAP 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 CAP 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.**

- d. 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 CAP's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.
- The CAP's Reserved Rights-Insurance. The CAP 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 Risk Manager's reasonable judgment, the amount or type of insurance carried by the Contractor becomes inadequate.
- e. Contractor shall pass down the insurance obligations contained herein to all tiers of sub-consultants working under this Agreement.

## **2.4 INDEMNITY AND HOLD HARMLESS**

**2.4.1** Contractor agrees to and shall indemnify and hold harmless, the CAP, County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Commissioners, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees), from any liability whatsoever, including but not limited to property damage, bodily injury or death, based or asserted upon any services of Contractor, its officers, 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 CAP or any officer or employee of said CAP, other than the sole active negligence or willful misconduct of CAP, 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 CAP, its Directors and Officers, Specials 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.

**2.4.2** If any such claim, action, or proceeding is brought against CAP or CAP's officers, agents, employees, or independent contractors, Contractor, upon notice from CAP, shall defend the same at Contractor's expense by counsel satisfactory to CAP shall promptly notify Contractor of any claim, action, or proceeding against CAP or CAP's officers, agents' employees, independent contractors, and consultants relating to

**2.4.3** the performance, or omission to perform, any term or condition of this Contract. CAP shall cooperate fully in the defense of such claim, action, or proceeding.

CAP 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

**2.4.4** by the CAP.

**ARTICLE 3     SITE CONDITIONS**

**3.1     DIFFERING SITE CONDITIONS**

3.1.1     The Contractor shall have reviewed and ascertained pertinent local conditions such as location, accessibility, and general character of the site and satisfy himself as to the conditions under which the Work is to be performed. No claim for allowances shall be made because of Contractor's error or negligence in acquainting himself with the conditions at the site.

3.1.2     The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by CAP. The Contractor shall promptly report in writing to CAP any errors, inconsistencies, or omissions in the Contract Documents or inconsistencies with applicable code requirements observed by Contractor.

3.1.3     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 CAP, Contractor shall be responsible for the resultant losses, including, without limitation, the costs of correcting defective work.

3.1.4     The CAP 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.

3.1.5     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.

3.1.6     The Contractor shall protect and preserve established bench marks and monuments and shall make no changes in locations without the written approval of the CAP. Any bench marks or monuments that are lost or destroyed shall be replaced by the Contractor subsequent to notification and approval from CAP.

**3.2     SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK**

3.2.1     The Contractor acknowledges by submission of his/her bid that he has satisfied himself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including any exploratory work deemed necessary by the Contractor. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating the difficulty and cost of successfully performing the Work, or for proceeding to successfully perform the Work without additional expense to the CAP.

**3.3     DIMENSIONS AND MEASUREMENTS**

3.3.1     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 CAP before any work affected thereby has been performed. Failure to notify the CAP before starting work will be considered acceptance by the Contractor. Where doubts as to dimensions exist, CAP 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 (drawings and specifications) and shall at all times give the CAP and Architect access thereto.
- b. The Contractor will be given one set of drawings and specifications 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 drawings, 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 CAP by the Contractor. CAP 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 CAP, 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 CAP 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 CAP 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 CAP.

## **4.2 SUMMARY OF THE ORDER OF THE PROCEDURE**

- 4.2.1** In case of conflicts between the Contract Documents, the order of precedence shall be as follows:

- 1) Modifications or changes last in time are first in precedence.
- 2) Addenda.
- 3) CAP-Contractor agreement.
- 4) General Conditions except for specific modifications thereto stated in the Supplementary Conditions.
- 5) Supplementary Conditions.
- 6) Specifications.
- 7) 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.
- 8) Structural drawings
- 9) Architectural drawings.
- 10) As between detailed drawings and typical details bound within the specifications, the detailed drawings govern.
- 11) 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.
- 12) Schedules shown on the drawings take precedence over conflicting information given on other drawings.
- 13) Mechanical drawings.
- 14) 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 CAP'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 14 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. CAP, 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 CAP, Contractor shall remove and replace or adjust work which is not in accordance with the instructions from CAP 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. CAP may charge back to the Contractor, time and expense associated with RFI's, as may be reasonably determined by the CAP to be unnecessary.

##### **4.3.2 ADDITIONAL DETAILED INSTRUCTIONS**

- a. The CAP 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 Contract, he must submit written notice thereof immediately to the CAP, 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. CAP will then consider such notice and, if in its judgment it is justified, the CAP 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 CAP 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 CAP 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 CAP 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 CAP 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.

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 include the following:

- 1) \_\_\_\_\_
- 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 CAP, 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 twenty (21) 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 to the CAP 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 CAP.

#### 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 CAP 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 CAP. 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

5.2.7 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.

5.2.8 Samples of various materials or equipment delivered on the site or in place, may be taken by the CAP 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 CAP.

Unless otherwise specified, when tests are required, only one test of each sample proposed for use will be made at the expense of the CAP. Samples which do not meet specification requirements will be rejected. Requests for testing of additional samples by Contractor may be made by the CAP 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 thirty-five (35) days after the award of the Contract for submission of data substantiating substitution of "equal" items. The CAP 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 CAP.
- 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 CAP shall be the sole judge as to such matters. In the event that the CAP 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 CAP 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 CAP. When specifically requested by the CAP, 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 CAP's authorized representative, and shall be made without additional cost to the CAP, such costs, including the fees of the Architect, to be borne by the Contractor.

### **ARTICLE 6 SCHEDULES**

#### **6.1 CONSTRUCTION SCHEDULE**

- 6.1.1** The Contractor shall prepare and submit to the CAP within five days after work commences on the contract or another period of time determined by the Contracting Officer, three copies of 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 progress chart 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 CAP and Contractor. If the Contractor fails to submit a schedule within the time prescribed, the Contracting Officer may withhold approval of progress payments or take other remedies under the contract until the Contractor submits the required schedule.

- 6.1.2** The Contractor shall submit any supplementary schedule or schedules as the Contracting Officer deems necessary to demonstrate how the approved rate of progress will be regained. If, in the opinion of the Contracting Officer, the Contractor falls behind the approved schedule, the Contractor shall take steps necessary to improve its progress, without additional cost to the CAP. In this circumstance, the Contracting Officer may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit for approval any supplementary schedule or schedules in chart form as the Contracting Officer deems necessary to demonstrate how the approved rate of progress will be regained. Failure of the Contractor to comply with the requirements of the Contracting Officer under this clause shall be grounds for a determination by the Contracting Officer that the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the contract, and the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the default clause of the contract.
- 6.1.3** All schedule updates must accurately reflect the as-built schedule. There shall be no change to the Critical Path without the CAP's written consent. The Contractor shall enter the actual progress on the chart as required by the Contracting Officer, and immediately deliver three copies of the annotated schedule to the Contracting Officer.

## **ARTICLE 7    TIME, LIQUIDATED DAMAGES AND EXTENSIONS**

### **7.1    TIME OF WORK**

The Contractor shall commence the project upon receipt of the written Notice to Proceed (See: Article 1 for the Definition of the Notice to Proceed) and shall perform the work diligently to completion within the number of calendar days specified in the Contract. 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 CAP, unless required by these Specifications. See: Working Hours.

### **7.2    LIQUIDATED DAMAGES**

If the Work is not completed within the time required, damage will be sustained by the CAP. It is and will be impracticable and extremely difficult to ascertain and determine actual damage which CAP will sustain by reason of such delay; and it is therefore agreed that Contractor will pay to CAP the sum of \$ 300.00 per day 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 CAP may deduct the amount thereof from any money due or that may become due the Contractor under the Contract.

### **7.3    UNAVOIDABLE DELAYS**

#### **7.3.1    TIME EXTENSION**

- a.    The Contractor will be granted an extension of time for completion of the Work beyond that named in the Contract Documents, 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.

### **7.3.2 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 CAP will designate such time as unavoidable delay and grant a one (1) calendar day, non-compensable, time extension.

### **7.3.3 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 CAP in writing of such delay and its cause, in order that the CAP 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, CAP, 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 CAP at the time of their occurrence and found by CAP 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 CAP at the time of its occurrence has been an unavoidable delay.

### **7.4 REQUEST FOR TIME EXTENSION**

- 7.4.1 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.

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

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

## **ARTICLE 8    PERFORMANCE**

### **8.1    SUPERVISION & CONSTRUCTION PROCEDURES**

**8.1.1** The Contractor shall supervise and direct the work. The Contractor shall be solely responsible for all construction means, methods, techniques, sequences, procedures, project safety, and shall coordinate all portions of the Work under the Contract, including the relations of the various trades to the progress of the Work, in accordance with the provisions of the Contract Documents.

**8.1.2** The Contractor shall be responsible to CAP for the acts and omissions of the Contractor's employees, subcontractors, and their agents and employees, and any other persons performing any of the work under a contract with the Contractor.

**8.1.3** The Contractor is an independent contractor and nothing in the Contract Documents shall be interpreted to make the Contractor an agent of CAP.

### **8.2    SUPERVISION**

**8.2.1** Within seven (7) days after the Notice to Proceed, the Contractor shall provide to CAP an organization chart outlining key job personnel. 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.

**8.2.2** The Contractor shall employ, during the progress of the Work, a competent Project Superintendent and any necessary assistants, as approved by CAP. The Project Superintendent shall not be changed except with the consent of the Authorized Representative of CAP, unless the Superintendent proves to be unsatisfactory to the Contractor or ceases to be in his employ. CAP 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.

**8.2.3** CAP 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.

### **8.3 CONDUCT OF WORK**

**8.3.1** 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 CAP. 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 CAP.

### **8.4 PROTECTION OF WORK & PROPERTY**

**8.4.1** The Contractor shall continuously maintain adequate protection of the Work from damage and shall protect the CAP'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 CAP. He shall adequately protect adjacent property as provided by law and the Contract Documents.

**8.4.2** 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.

**8.4.3** 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 CAP may have the necessary work performed and charge the cost to the Contractor.

### **8.5 CONTRACTOR'S RESPONSIBILITY FOR WORK**

**8.5.1** Until Acceptance of the Work by CAP, 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, CAP shall notify the Contractor, who shall indemnify and hold harmless CAP against any expenses, or judgment arising therefrom.

**8.5.2** 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.

**8.5.3** No advertising of any description will be permitted in or about the Work, except by order of CAP.

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

### **8.6 UTILITIES**

**8.6.1** 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.

**8.6.2** Utilities shall not be interrupted except with the approval of the CAP. 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.

- 8.6.3
- 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 CAP during the entire progress of the Work.

## 8.7 WORKING HOURS

8.7.1 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 CAP and without CAP approval.

8.7.2 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 CAP, 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.

8.7.3 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 CAP or its officers or agents and to the Division of Labor Standards Enforcement of the Department of Industrial Relations.

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

## 8.8 MATERIAL & EQUIPMENT

8.8.1 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.

8.8.2 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.

8.8.3 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 CAP, 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.

## 8.9 LAYOUT OF WORK

8.9.1 The Contractor shall lay out its work from established base lines and bench marks indicated on the drawings, 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 Contract Documents. The Contractor shall also be responsible for maintaining and preserving all stakes and other marks established by the CAP until authorized to remove them. If such marks are destroyed by the Contractor before their removal is authorized, the CAP may replace them and deduct the expense of the replacement from any amounts due or to become due to the Contractor.

## 8.10

### USE OF PREMISES

8.10.1 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.

## 8.11 OPERATIONS & STORAGE

8.11.1 The Contractor shall confine all operations (including storage of materials) on CAP premises to areas authorized or approved by the CAP.

8.11.2 Temporary buildings (e.g., storage sheds, shops, offices) and utilities may be erected by the Contractor only with the approval of the CAP and shall be built with labor and materials furnished by the Contractor without expense to the CAP. 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.

8.11.3 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 CAP 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.

## 8.12 HEAT/POWER/LIGHT

8.12.1 Unless otherwise specified or already provided by the CAP, 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.

### **8.13 CLEANING UP**

**8.13.1** 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 CAP. Upon completing the Work, the Contractor shall leave the work area in a clean, neat, and orderly condition satisfactory to the CAP.

## **ARTICLE 9 SAFETY & HEALTH**

### **9.1 ACCIDENT PREVENTION**

**9.1.1** 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, CAP and City, and other governing agencies having jurisdiction;
- d. Ensure that any additional measures the CAP determines to be reasonably necessary for this purpose are taken.

**9.1.2** 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 CAP.

**9.1.3** 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.

**9.1.4** 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.

### **9.2**

#### **SANITARY FACILITIES**

**9.2.1** 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 CAP.

### **9.3**

#### **RESPONSIBILITY FOR COMPLIANCE WITH CAL-OSHA**

#### **9.3.1**

All work, materials, work safety procedures and equipment shall be in full accordance with the latest Cal-OSHA rules and regulations.

**9.3.2** 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 CAP as herein set forth.

#### **9.4 TOXIC AND HAZARDOUS MATERIALS AND WASTE**

##### **9.4.1 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.

##### **9.4.2 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.

##### **9.4.3 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 or paint already applied.

##### **9.4.4 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."

##### **9.4.5 ASBESTOS PROHIBITED**

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

#### **ARTICLE 10 CAP-FURNISHED PROPERTY**

##### **10.1 CAP-FURNISHED PROPERTY**

- 10.1.1** The CAP may furnish to the Contractor property as identified in the specification(s) 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 CAP 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.
- 10.1.2** Each item of property to be furnished under this clause shall be identified by the Contractor in a schedule by quantity, item, and description. Schedule form will be provided by the CAP.
- 10.1.3** 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.
- 10.1.4** The Contractor shall set up accounting records and establish an inspection procedure as approved by CAP.

## **ARTICLE 11    BENEFICIAL OCCUPANCY**

### **11.1            BENEFICIAL OCCUPANCY**

- 11.1.1** CAP shall have the right to take possession of or use any completed or partially completed portion of the Work. CAP'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.
- 11.1.2** While CAP 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 CAP's possession or use. If Contractor believes the partial possession or use by CAP 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 Contract price or the time of completion. CAP will then consider such request and, if in its judgment it is justified, CAP will modify the contract in writing accordingly. In the event the Contractor disagrees with CAP's decision, the Contractor shall be required to submit a claim pursuant to the DISPUTE article.

## **ARTICLE 12    INSPECTION AND TESTING**

### **12.1            INSPECTION AND TESTING**

- 12.1.1** 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 CAP. The CAP shall at all times have access to the Work, and the Contractor shall provide proper facilities for such access and for inspection.
- 12.1.2** CAP inspections and tests are for the sole benefit of the CAP 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 CAP after Acceptance regarding latent defects, gross mistakes, fraud or the CAP's rights under any warranty or guarantee.
- 12.1.3** The presence or absence of a CAP 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 CAP's written authorization.
- 12.1.4** 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 CAP. The CAP 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 Contract.
- 12.1.5** The Contractor shall, without charge, replace or correct work found by the CAP not to conform to contract requirements, unless in the public interest the CAP consents to accept the work with an appropriate adjustment in Contract price. The Contractor shall promptly segregate and remove rejected material from the premises.
- 12.1.6** If, before Acceptance of the Work, the CAP 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 CAP shall issue a Change Order for such removal and reinstallation.
- 12.1.7** The Contractor shall at all times maintain proper facilities and provide safe access for inspection by the CAP 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 CAP of its readiness for inspection and without the approval or consent of CAP. Should any such work be covered up without such notice, approval, or consent, it must, if required by CAP, be uncovered for examination at the Contractor's expense.
- 12.1.8** The Contractor shall notify the CAP at least one (1) work day in advance of the time scheduled for the inspection. Should the Contractor fail to notify the CAP 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 CAP. Should the Contractor request acceptance of such rejected work the CAP 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 CAP after receipt of such certification if the CAP approves of such certification.
- 12.1.9** If the Contractor does not promptly replace or correct rejected work, the CAP 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.
- 12.1.10** Construction review of the Contractor's performance by the CAP is not intended to include the review of the adequacy of the Contractor's safety measures, in, on, or near the construction site.
- 12.1.11** The CAP will pay for initial testing services specified to be performed by the CAP. 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 CAP from the Contract sum.

## **12.2 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 CAP inspection, and such other inspections as may otherwise be provided for in the Contract Documents.

## **12.3 FINAL INSPECTION AND TESTS**

The Contractor shall give the CAP 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 CAP determines that the Work is not ready for final inspection and so informs the Contractor.

## **ARTICLE 13 ACCEPTANCE**

### **13.1 ACCEPTANCE OF THE WORK**

**13.1.1** After the final inspection by CAP and all the contract documentation has been received, it will be recommended to the CAP 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.) Upon Acceptance of the Work, Contractor will be relieved of the duty of maintaining and protecting the Work. Neither determination by the CAP that the Work is complete, nor Acceptance thereof, shall operate as a bar to CAP's claim against Contractor pursuant to Contractor's warranty and guarantees.

**13.1.2** Partial payments shall not be construed as acceptance of any part of the Work.

**13.1.3** 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.

**13.1.4** CAP shall be given adequate opportunity to make any necessary arrangements for fire insurance and extended coverage.

**13.1.5** The Acceptance of the Work will not be recommended until all requirements of the Contract Documents are complete and approved by the CAP. 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 14 WARRANTY AND GUARANTEES**

### **14.1 CONTRACTOR'S WARRANTY AND GUARANTEE**

**14.1.1** 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.

**14.1.2** This warranty shall continue for a period of one (1) year from the date of filing of Notice of Completion on the

Work. The Performance Bond shall remain in force during the warranty period.

**14.1.3** The Contractor shall remedy at the Contractor's expense any damage to CAP-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.

**14.1.4** 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.

**14.1.5** The CAP 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 CAP 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 CAP 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 CAP for extra architectural services required in the enforcement of Contractor's guarantee after Acceptance of the Work shall be paid to the CAP by the Contractor.

**14.1.6** In the event of any emergency constituting an immediate hazard to health or safety of CAP employees, property, or licensees, when caused by work of the Contractor that is not in accordance with the Contract requirements, the CAP may undertake at Contractor's expense and without prior notice, all work necessary to correct such hazardous condition(s).

**14.1.7.** 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 CAP, unless directed otherwise by the CAP; and
- c. Enforce all warranties for the benefit of the CAP, unless otherwise directed by the CAP.

**14.1.8** This warranty shall not limit the CAP's rights under the Inspection and Acceptance section(s) of this Contract with respect to latent defects, gross mistakes, or fraud.

## **ARTICLE 15 ENVIRONMENTAL PROTECTION**

### **15.1 DUST CONTROL**

**15.1.1** The Contractor shall provide any and all dust control required.

**15.1.2** Whenever the Contractor is negligent in providing dust control, the CAP shall order the Contractor to provide such dust control. If the Contractor does not comply promptly with such order, the CAP 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 CAP. The CAP shall not be held

responsible for schedule delays due to actions taken by CAP to mitigate the failure of the Contractor in providing dust control.

## **15.2 EXCESSIVE NOISE**

**15.2.1** 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.

**15.2.2** Should the CAP 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 CAP, 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.

## **15.3 POLLUTION CONTROL, CLEANING**

**15.3.1** 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 16 EMPLOYMENT PRACTICES**

### **16.1 QUALIFICATIONS FOR EMPLOYMENT AND APPRENTICESHIP STANDARDS**

**16.1.1** 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.

**16.1.2** 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.

**16.1.3** 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.

**16.1.4** 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 CAP shall be employed by this contractor.

## **16.2 WAGES & RECORDS**

### **16.2.1 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 CAP, forfeit two hundred dollars (\$200.00) 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 CAP 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 CAP 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 CAP on the Contract.

### **16.2.2 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 CAP, 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.

## **16.3 NOTICE OF LABOR DISPUTES**

- 16.3.1** 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 CAP.



**16.3.2** 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.

#### **16.4 NONDISCRIMINATION**

##### **16.4.1 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 CAP, 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 CAP.

##### **16.4.2 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 CAP 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.

#### **16.4.3 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, promotion, 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.

#### **16.4.4 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.

#### **16.4.5 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 17 SUBCONTRACTING**

#### **17.1 SUBCONTRACTORS**

**17.1.1** 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, in his bid, 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 Contractor's total bid.

**17.1.2** CAP reserves the right to approve all subcontractors. Such approval shall be a consideration to the awarding of the Contract and unless notification to the contrary is given to the Contractor prior to the signing of the Contract, the list of subcontractors which is submitted with his proposal will be deemed to be acceptable.

**17.1.3** The Contractor shall be as fully responsible to the CAP 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.

**17.1.4** Nothing contained in the Contract Documents shall create any contractual relationship between any subcontractor and CAP.

**17.1.5** 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.

## **17.2 RELATIONS OF CONTRACTOR AND SUBCONTRACTOR**

**17.2.1** The Contractor agrees to bind every subcontractor by the terms of the Contract with the CAP, the General Conditions, Supplementary Conditions, and the drawings and specifications as far as applicable to his work, unless specifically noted to the contrary in a subcontract approved in writing as adequate by tCAP.

## **17.3 SUBCONTRACTS**

**17.3.1** Pursuant to the provisions of Sections 4100 to 4114 of the California Public Contract Code, inclusive, the Contractor shall not, without the consent of CAP, either:

- a. Substitute any persons as subcontractors in place of the subcontractors designated in his original bid without the consent of CAP. (The CAP'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 bid.
- c. Sublet or subcontract any portion of the work in excess of one-half of one percent of his bid to which his original bid 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 CAP 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 18 TAXES**

### **18.1 SALES AND PAYROLL TAXES**

**18.1.1** 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 19 CHANGES**

### **19.1 CHANGE ORDER WORK**

**19.1.1** CAP reserves the right to make changes in the work without impairing the validity of the Contract. The CAP 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 Contracting Officer, in the manner and amounts specified by CAP procurement and procedure manual.
- c. By written authorization, issued by the Contracting Officer, 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.

- 19.1.2** Upon receipt of a proposed Change Order from CAP, 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.
- 19.1.3** 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 CAP or if required by schedule limitations.
- 19.1.4** If the Contractor fails to submit the cost proposal within the 15-day period (or as requested), the CAP 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 CAP's estimate of cost. If the change is issued based on the CAP 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 CAP's estimate was in error.
- 19.1.5** If CAP 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 CAP may issue a Construction Change Directive and the contractor shall proceed with the work. The CAP 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 CAP's estimate, a change order will be issued by the CAP. If no agreement can be reached, the CAP 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 CAP, 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."
- 19.1.6** The Contractor will give notice of a requested change on his letterhead within seven (7) calendar days of discovery and, if the CAP agrees, a proposed change order will be issued on the CAP's standard change order form.
- 19.1.7** 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.
- 19.1.8** Any changes to the Contract amount shall be in a lump sum mutually agreed to by the Contractor and the CAP, except that when, in the opinion of the CAP, 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.
- 19.1.9** 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.
- 19.1.10** When the work is to be done on a cost-plus-percentage basis, the Contractor shall submit statements as required by the CAP 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.

19.1.11 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 CAP'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 vehicles and other costs incurred by supervision will not be allowed.

- 19.1.12** For added or deducted work by subcontractors, the Contractor shall furnish to the CAP 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.
- 19.1.13** For added or deducted work furnished by a vendor or supplier, the Contractor shall furnish to the CAP a detailed estimate or quotation of the cost to the Contractor for such work, signed by such vendor or supplier.
- 19.1.14** 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.
- 19.1.15** 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 CAP 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 CAP 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 CAP, stating therein the basis for his dispute with such change order.
- 19.1.16** 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.
- 19.1.17** Payment for additional work or extras, if any, shall become due and payable in accordance with the provisions for payment in the Contract.
- 19.1.18** 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.
- 19.1.19** 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.

## 19.2 CHANGE ORDERS AND LABOR RATES GUIDELINES

19.2.1 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 CAP.
- (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 CAP.
- (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 CAP.

b. Change Orders:

- (1) Change orders shall be prepared in accordance with the project contract.
- (2) No insurance costs are paid by CAP, 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 CAP, and approved by the CAP. 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 CAP, and approved by the CAP. 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 CAP.
- (6) Material transportation costs are paid by CAP when justified in the opinion of the CAP, and approved by the CAP'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 CAP. 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.

## 19.3 AUDIT

19.3.1 The CAP shall have the right to examine and audit all books, estimates, records, contracts, documents,

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 CAP.

**19.3.2** 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.

**19.3.3** 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 20    PAYMENT**

### **20.1    PROGRESS PAYMENTS**

**20.1.1** The CAP shall pay the Contractor the price as provided in this Contract.

**20.1.2** The CAP shall make progress payments monthly as the Work proceeds, on estimates approved by the CAP. The Contractor shall furnish a breakdown of the total contract price, in a format provided by the CAP, 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.

**20.1.3** Contractor shall submit to the CAP 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.

**20.1.4** In the preparation of estimates, the CAP 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 this Contract; 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.

**20.1.5** On the 25th of each month the Contractor will submit his request for payment. Prior to that submittal the CAP will review the requested percentage of completion for each activity. The payment request will be in the format as provided by the CAP and will refer to the schedule.

**20.1.6** Upon receipt of a payment request, the CAP 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.

**20.1.7** Any progress payment which is undisputed and properly submitted and remains unpaid for thirty (30) calendar days after receipt by CAP 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 CAP to make a payment without incurring interest pursuant to this section shall be reduced by the number of days by which the CAP exceeds the seven-day return requirement set forth in 20.1.6 above.

- 20.1.8** In making these progress payments, there shall be retained five percent (5%) from the amount of each progress payment until the work is complete.
- 20.1.9** 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.
- 20.1.10** 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.
- 20.1.11** The CAP 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 CAP 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.
- 20.1.12** Should stop notices be filed with the CAP shall withhold the amount required plus 25% from certificates until such claims shall have been resolved pursuant to applicable law. California Civil Code Section 9000 et seq.
- 20.1.13** Contractor shall provide (1) forms of conditional releases of stop notice and bond rights upon progress payment, complying with California Civil Code Section 8132, for all work performed during the time period covered by the current Application for Payment, signed by the Contractor and the subcontractors of every tier; and (2) forms of unconditional release of stop notice and bond rights upon progress payment, complying with Civil Code Section 8134 for all work performed during the time period covered by previous Application for Payment, signed by Contractor and the subcontractors of every tier.
- 20.1.14** All material and work covered by progress payments made shall, at the time of payment, become the sole property of the CAP, 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 CAP to require the fulfillment of all of the terms of the contract.

**20.2 FINAL PAYMENT**

### **20.2.1 GENERAL**

- a. The CAP shall pay the amount due the Contractor under this Contract 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.) Submission of conditional releases and waivers of stop notice and bond rights upon final payment in the form required by California Civil Code Section 8136 executed by Contractor and by all the subcontractors of every Tier.
  - 4.) Presentation of release of all claims against the CAP 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 CAP, to indemnify him against any lien.

### **20.2.2 FINAL CERTIFICATE FOR PAYMENT**

- a. When the work is ready for acceptance by the CAP, they will certify 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 CAP 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 CAP shall so certify authorizing the final payment.

### **20.2.3 FINAL PAYMENT**

- a. After Acceptance of Work, the CAP will submit to Contractor a statement of the sum due Contractor under this contract, together with CAP 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 CAP, all its books, records, documents, and other evidence bearing on the costs and expenses of the Contractor under this Contract.

## **ARTICLE 21 SUSPENSION OF WORK/TERMINATION**

### **21.1 NON-COMPLIANCE WITH CONTRACT REQUIREMENTS**

**21.1.1** In the event the Contractor, after receiving written notice from the CAP of non-compliance with any requirement of this Contract, fails to promptly initiate appropriate action to comply with the specified requirement, the CAP 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.

**21.1.2** 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 CAP 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 CAP may designate, and the CAP 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 CAP 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 CAP out of such monies as may either be due, or may at any time thereafter become due to the Contractor under the Contract.

## **21.2 TERMINATION**

### **21.2.1 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 CAP 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 CAP shall immediately serve written notice thereof upon the surety and the Contractor, and the CAP may take over the Contractor's work and prosecute the same to completion by contract or by any other method it may deem advisable, for the account and at the expense of the Contractor, and the Contractor and his surety shall be liable to the CAP for any excess cost occasioned the CAP thereby, and in such event the CAP 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.

### **21.2.2 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 CAP may, without prejudice to any other right or remedy, terminate the Contract.
- b. The CAP may terminate performance of work under this Contract in whole or in part, if the CAP determines that a termination is in the CAP's interest. The CAP 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 CAP, 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 CAP, 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 CAP, transfer title and deliver to the CAP (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 CAP.
  - (6) Complete performance of work not terminated.
  - (7) Take any action that may be necessary, or that the CAP 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 CAP has or may acquire an interest.
  - (8) Use its best efforts to sell, as directed or authorized by the CAP, 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 CAP. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the CAP under this contract, credited to the price or cost of the work, or paid in any other manner directed by the CAP.
- d. After termination, the Contractor shall submit a final termination settlement proposal to the CAP in the form and with the certification prescribed by the CAP. 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 CAP 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 CAP 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 CAP fail to agree on the whole amount to be paid the Contractor because of the termination of work, the CAP 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 CAP 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 CAP 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 CAP shall exclude from the amounts payable to the Contractor the fair value, as determined by the CAP, 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 CAP.
- 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 CAP 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 CAP.
- j. If the termination is partial, the Contractor may file a proposal with the CAP for a Change Order of the price(s) of the continued portion of the Contract. The CAP 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 CAP.

k. The CAP 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 CAP 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 CAP 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 CAP, State and/or the U.S. Government or their representatives' at all reasonable times, without any direct charge.

## **ARTICLE 22    DISPUTES/CLAIMS**

### **22.1    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 CAP shall be resolved under the following the statutory procedure unless the CAP 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 CAP.
- b. Claims Under \$50,000. The CAP shall respond in writing to the claim within 45 days of receipt of the claim, or, the CAP 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 CAP may have. Of additional information is needed thereafter, it shall be provided upon mutual agreement of the CAP and the claimant. The CAP'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 CAP 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 CAP may have against the claimant. If additional information is needed thereafter, it shall be provided pursuant to mutual agreement between the CAP and the claimant. The CAP'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 CAP, State and/or the U.S. Government or their representative's at all reasonable times, without any direct charge.
- d. If the claimant disputes the CAP's response, or if the CAP fails to respond within the statutory time period(s), the claimant may so notify the CAP 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 CAP 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.

## 22.2 CLAIM FORMAT/REQUIREMENTS

22.2.1 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)

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

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

## 22.3 NOTICE OF THIRD PARTY CLAIMS

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

Signature: Melanie Moore  
Melanie Moore (Aug 14, 2024 09:23 PDT)

Email: melkmoo@gmail.com

Signature: Nicole Milner  
Nicole Milner (Aug 14, 2024 09:46 PDT)

Email: nmilner@amerecos.com

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**PROFESSIONAL SERVICES AGREEMENT**

**For**

**Weatherization Services**

**By and Between**

**The County of Riverside**

**And**

**[NAME]**





1 THIS PROFESSIONAL SERVICES AGREEMENT FOR WEATHERIZATION  
2 SERVICES ("Agreement"), is made and entered into this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ by  
3 and between [NAME] a California corporation/entity ("CONTRACTOR") and the  
4 COUNTY OF RIVERSIDE, a political subdivision of the State of California, on behalf of  
5 its Department of Housing and Workforce Solutions/Community Action Partnership  
6 Agency, ("CAP"). The parties agree as follows:

7  
8 **1. Description of Services**

9 CONTRACTOR shall provide CAP Riverside clients, who are low-income, and  
10 their families, with complete weatherization services as outlined and specified in the  
11 Scope of Service, attached hereto as Exhibit "A" and incorporated herein by this  
12 reference.

13 **1.1** CONTRACTOR represents that it has the skills, experience and knowledge  
14 necessary to fully and adequately perform under this Agreement, and CAP Riverside  
15 relies upon this representation. CONTRACTOR shall perform to the satisfaction of CAP,  
16 and CONTRACTOR shall perform the services and duties in conformance to and  
17 consistent with the standards generally recognized as being employed by professionals  
18 in the same discipline in the State of California. CONTRACTOR further represents and  
19 warrants to CAP that it has all licenses, permits, qualifications and approvals of whatever  
20 nature are legally required to practice its profession and provide weatherization services.  
21 CONTRACTOR further represents that it shall keep all such licenses and approvals in  
22 effect during the term of this Agreement. CONTRACTOR further represents that it is  
23 familiar with all of the California State Community Services and Development  
24 Department ("CSD") compliance documents that are available online on the CSD  
25 website at: <http://www.providers.csd.ca.gov>. CONTRACTOR further affirms that is has  
26 registered for access to the CSD website.

27 **1.2** CONTRACTOR shall comply with all applicable terms as set forth in the  
28 State of California – Department of General Services Standard Agreement 21B-5027.

1           **1.3**    CONTRACTOR affirms that it is fully apprised of all of the work to be performed  
2 under this Agreement; and CONTRACTOR agrees it can properly perform this work at the  
3 fees stated in Exhibit "B", attached hereto and incorporated herein by this reference, or in the  
4 amounts as otherwise structured by CAP, if the CONTRACTOR'S fees are in excess of the  
5 maximum allowable amounts. CONTRACTOR shall not perform services or provide products  
6 that are not set forth in this Agreement, unless by prior written request of CAP.

7           **1.4**    Acceptance by CAP of CONTRACTOR'S performance under this Agreement  
8 does not operate as a release of CONTRACTOR'S responsibility for full compliance with the  
9 terms of this Agreement.

10          **1.5**    CAP shall provide a weatherization assessment on each eligible household,  
11 which shall serve as the Scope of Work for that job.

12  
13          **2.       Period of Performance**

14          **2.1**    This Agreement shall commence upon signature of this Agreement by both  
15 parties and shall continue for a period of five years or until all funds are expended,  
16 whichever occurs first, unless earlier terminated pursuant to Paragraph 5 below.  
17 CONTRACTOR shall commence performance upon that date and shall diligently and  
18 continuously perform thereafter.

19  
20          **3.       Compensation**

21          **3.1**    CAP shall pay CONTRACTOR for services performed, products provided,  
22 and expenses incurred in accordance with the Pricing Matrix attached hereto as Exhibit  
23 "B" and incorporated herein by this reference. Maximum payment by CAP to  
24 CONTRACTOR for the services provided herein, shall not exceed [AMOUNT] AND  
25 [AMOUNT] DOLLARS (\$xxx,xxx), including all expenses, ("Contracted Amount") over  
26 the term of this Agreement.

27          CAP shall not be responsible for any fees or costs incurred above or beyond the  
28 aforementioned Contracted Amount and CAP shall have no obligation to purchase any

1 specified amount of services or products, unless agreed to in writing by CAP pursuant  
2 to Paragraph 4 below. CONTRACTOR shall not be entitled to any additional fees for any  
3 of the Weatherization Services other than those set forth below.

4 No compensation shall be allowed for administrative, overhead, word processing  
5 (normal or overflow secretarial time or overtime, or computer time or service) and related  
6 expenses.

7 **3.2** The maximum amounts payable to the CONTRACTOR pursuant to this  
8 Agreement shall not exceed the amounts listed in Exhibit "B" and/or those authorized by  
9 Resolution No. 2024-085, LIHEAP and CSD standards for that particular calendar year.  
10 If amounts in Exhibit "B" are in excess of maximum allowable costs, then costs shall be  
11 reduced to the maximum allowable amount(s) by CAP in its sole and absolute discretion.

12 **3.3** CONTRACTOR shall be paid only in accordance with an invoice submitted  
13 to CAP by CONTRACTOR. CAP shall pay the invoice within thirty (30) working days  
14 from the date of receipt of the invoice. Payment shall be made to CONTRACTOR only  
15 after services have been rendered or delivery of materials or products, and acceptance  
16 has been made by CAP Riverside. Prepare invoices in duplicate. For this Agreement,  
17 send the original and duplicate copies of invoices to:

18 Community Action Partnership - Riverside  
19 2038 Iowa Avenue Ste. B-102, Riverside, CA 92507

20 ATTN: Executive Director

21 (951) 955-4900

22 **a)** The CONTRACTOR shall submit a weekly invoice for actual expenses  
23 incurred in providing the Service along with appropriate documentation of  
24 expenditures (receipts, copies of checks issued, timecards, travel expense,  
25 etc.); remittance address; and an invoice total.

26 **b)** The Invoice must be submitted within five (5) working days of the end of  
27 the reporting period. Expenditures may not be reimbursed if all documentation  
28 is not received in a timely manner.

1 c) If the eligibility of expenditures cannot be determined because  
2 CONTRACTOR'S records or documentation are nonexistent or inadequate,  
3 according to generally accepted accounting practices, the questionable costs  
4 shall be disallowed by CAP.

5 **3.4** CAP's obligation for payment of this Agreement is contingent upon and  
6 limited by the availability of funding from which payment can be made. No legal liability  
7 on the part of CAP shall arise for payment unless funds are made available for such  
8 payment. In the event that such funds are not forthcoming for any reason, CAP shall  
9 immediately notify CONTRACTOR in writing, and this Agreement shall be deemed  
10 terminated and have no further force and effect.

11 **3.5** CONTRACTOR acknowledges and agrees that this Agreement and the  
12 provision of services hereunder is nonexclusive and that the CAP may enter into similar  
13 agreements with other entities for the provision of similar services.

14 **3.6** The CONTRACTOR agrees that if, during the period of performance, CAP  
15 determines that the total Contracted Amount will not be expended, CAP, in its sole and  
16 absolute discretion, reserves the right to reduce the Contracted Amount, as determined  
17 by a review of CONTRACTOR'S invoices. Any reductions will be made in accordance  
18 with the terms outlined below in Paragraph 4 and/or Paragraph 5.

19  
20 **4. Alteration or Changes to the Agreement**

21 **4.1** No alteration or variation of the terms of this Agreement shall be valid  
22 unless made in writing and signed by the parties hereto, and no oral understanding or  
23 agreement not incorporated herein shall be binding on any of the parties hereto other  
24 than as defined below in Section 4.3. No additional services shall be performed by  
25 CONTRACTOR without a written amendment to this Agreement.

26 **4.2** CONTRACTOR understands that the Contracting Officer or the HWS  
27 Director or designee, are the only authorized CAP representatives who may at any time,  
28 by written order, make any alterations within the general scope of this Agreement.

1           **4.3** Additional Required Measures: If any new or additional construction,  
2 weatherization or rehabilitation measures, requirements or standards are adopted or  
3 required by the County of Riverside, the State of California, or the U.S. Government,  
4 during the term of this Agreement, those new measures shall be considered the required  
5 standards and shall replace all relevant current Scope of Work requirements, upon two  
6 working days written notice to the CONTRACTOR.

7           **4.4** Any claim by the CONTRACTOR for additional payment related to this  
8 Agreement shall be made in writing by the CONTRACTOR within 30 days of when the  
9 CONTRACTOR has or should have notice of any actual or claimed change in the Scope  
10 of Service, which results in additional and unanticipated cost to the CONTRACTOR. If  
11 the Contracting Officer decides that the facts provide sufficient justification, he may  
12 authorize additional payment to the CONTRACTOR pursuant to the claim. Nothing in  
13 this Paragraph 4 shall excuse the CONTRACTOR from proceeding with performance of  
14 the Agreement even if there has been a change in the Scope of Service.

15  
16 **5. Termination**

17           **5.1** CAP may, by written notice to CONTRACTOR, terminate this Agreement in  
18 whole or in part at any time. Such termination may be for CAP's convenience or because  
19 of CONTRACTOR'S failure to perform its duties and obligations under this Agreement  
20 including, but not limited to, the failure of CONTRACTOR to timely perform services  
21 pursuant to this Agreement, including, but not limited to the Scope of Service attached  
22 hereto as Exhibit "A" and the Services.

23           **5.2 Discontinuance of Services.** Upon Termination, CONTRACTOR shall,  
24 unless otherwise directed by the notice, discontinue all services and deliver to CAP all  
25 data, estimates, graphs, summaries, reports, and other related materials as may have  
26 been prepared or accumulated by CONTRACTOR in performance of services, whether  
27 completed or in progress.

28           **5.3 Effect of Termination for Convenience.** If the termination is to be for the

1 convenience of CAP, then CAP shall compensate CONTRACTOR for services  
2 satisfactorily provided through the date of termination. CONTRACTOR shall provide  
3 documentation deemed adequate by CAP to show the services actually completed by  
4 CONTRACTOR prior to the date of termination. This Agreement shall terminate thirty  
5 (30) days following receipt by CONTRACTOR of the written notice of termination.

6 **5.4** Effect of Termination for Cause. If the termination is due to the failure of  
7 CONTRACTOR to fulfill its obligations under this Agreement, CONTRACTOR shall be  
8 compensated for those services which have been completed in accordance with this  
9 Agreement and accepted by CAP. In such case, CAP may take over the work and  
10 prosecute the same to completion by contract or otherwise. Further, CONTRACTOR  
11 shall be liable to CAP for any reasonable additional costs incurred by CAP to revise work  
12 for which CAP has compensated CONTRACTOR under this Agreement, but which the  
13 CAP has determined in its sole discretion needs to be revised in part or whole to  
14 complete the project. Prior to discontinuance of services, CAP may arrange for a meeting  
15 with CONTRACTOR to determine what steps, if any, CONTRACTOR can take to  
16 adequately fulfill its requirements under this Agreement. In its sole discretion, CAP may  
17 propose an adjustment to the terms and conditions of the Agreement, including the  
18 contract price. Such contract adjustments, if accepted in writing by the parties, shall  
19 become binding on CONTRACTOR and shall be performed as part of this Agreement.  
20 In the event of termination for cause, unless otherwise agreed to in writing by the parties,  
21 this Agreement shall terminate seven (7) days following the date the notice of termination  
22 was mailed to CONTRACTOR. Termination of this Agreement for cause may be  
23 considered by CAP in determining whether to enter into future agreements with  
24 CONTRACTOR.

25 **5.5** Notwithstanding any of the provisions of this Agreement, CONTRACTOR'S  
26 rights under this Agreement shall terminate (except for fees accrued prior to the date of  
27 termination) upon dishonesty, or a willful or material breach of this Agreement by  
28 CONTRACTOR, or in the event of CONTRACTOR'S unwillingness or inability for any

1 reason whatsoever to perform the duties hereunder, or if the Agreement is terminated  
2 pursuant to this Paragraph 5. In such event, CONTRACTOR shall not be entitled to any  
3 further compensation under this Agreement.

4 **5.6** If this Agreement is federally or State funded, CONTRACTOR shall not be  
5 debarred from the System for Award Management (SAM). CONTRACTOR must notify  
6 CAP immediately of a debarment. Reference: System for Award Management (SAM) at  
7 <https://www.sam.gov> for the Central Contractor Registry (CCR), Federal Agency  
8 Registration (FedReg), Online Representations and Certifications Application, (ORCA)  
9 and Excluded Parties List System (EPLS). (Executive Order 12549, 7 CFR Part 3017,  
10 45 CFR Part 76, and 44 CFR Part 17). The System for Award Management (SAM) is the  
11 Official U.S. Government system that consolidated the capabilities of CCR, FedReg,  
12 ORCA, and EPLS.

13 **5.7** The rights and remedies of CAP provided in this Paragraph 5 shall not be  
14 exclusive and are in addition to any other rights and remedies provided by law or this  
15 Agreement.

16  
17 **6. Ownership/Use of Contract Materials and Products**

18 CONTRACTOR agrees that all materials, reports or products in any form, including  
19 electronic, created by the CONTRACTOR for which the CONTRACTOR has been  
20 compensated by CAP pursuant to this Agreement shall be the sole property of CAP. The  
21 material, reports or products may be used by CAP for any purpose that it deems to be  
22 appropriate, including but not limited to, duplication and/or distribution within CAP or to  
23 third parties. CONTRACTOR agrees not to release or circulate in whole or part such  
24 materials, reports, or products without prior written authorization of CAP.

25  
26 **7. Conduct of Contractor**

27 **7.1** CONTRACTOR covenants that it presently has no interest, including but  
28 not limited to, other projects or independent contracts, and shall not acquire any such

1 interest, direct or indirect, which would conflict in any manner or degree with the  
2 performance of services required under this Agreement. CONTRACTOR further  
3 covenants that in the performance of this Agreement, no person having any such interest  
4 shall be employed or retained by it under this Agreement. CONTRACTOR agrees to  
5 inform CAP of all CONTRACTOR'S interests, if any, which are or may be perceived as  
6 incompatible with CAP'S interests.

7       **7.2** CONTRACTOR shall not, under circumstances which could be interpreted  
8 as an attempt to influence the recipient in the conduct of his/her duties, accept any  
9 gratuity or special favor from individuals or firms with whom CONTRACTOR is doing  
10 business or proposing to do business, in accomplishing the work under this Agreement.

11       **7.3** CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and  
12 entertainment directly or indirectly to CAP employees.

13       **7.4** CONTRACTOR agrees to submit to CAP, prior to release, copies of any  
14 proposed publicity pertaining to this Agreement. CAP reserves the right to modify or  
15 withdraw said publicity, in its sole and absolute discretion.

16  
17 **8. Inspection of Service: Quality Control/Assurance**

18       **8.1** All performance (which includes services, workmanship, materials,  
19 supplies and equipment furnished or utilized in the performance of this Agreement) shall  
20 be subject to inspection and test by CAP or other regulatory agencies at all times. The  
21 CONTRACTOR shall provide adequate cooperation to CAP representative(s) to permit  
22 him/her to determine CONTRACTOR'S conformity with the terms of this Agreement. If  
23 any services performed or products provided by CONTRACTOR are not in conformance  
24 with the terms of this Agreement, CAP shall have the right to require CONTRACTOR to  
25 perform the services or provide the products in conformance with the terms of the  
26 Agreement at no additional cost to CAP. When the services to be performed or the  
27 products to be provided are of such nature that the difference cannot be corrected, CAP  
28 shall have the right to: (1) require CONTRACTOR immediately to take all necessary



1 steps to ensure future performance in conformity with the terms of the Agreement; and/or  
2 (2) reduce the Agreement price to reflect the reduced value of the services performed or  
3 products provided. CAP may also terminate this Agreement for default and charge to  
4 CONTRACTOR any costs incurred by CAP because of CONTRACTOR'S failure to  
5 perform.

6 **8.2** CONTRACTOR shall establish adequate procedures for self-monitoring to  
7 ensure proper performance under this Agreement; and shall permit a CAP  
8 representative(s) to monitor, assess or evaluate CONTRACTOR'S performance under  
9 this Agreement at any time upon reasonable notice to CONTRACTOR.

10  
11 **9. Independent Contractor/Employment Eligibility**

12 **9.1** CONTRACTOR is, for purposes relating to this Agreement, an  
13 independent contractor and shall not be deemed an employee of CAP. It is expressly  
14 understood and agreed that CONTRACTOR (including its employees, agents and  
15 subcontractors) shall in no event be entitled to any benefits to which CAP employees are  
16 entitled, including but not limited to overtime, any retirement benefits, worker's  
17 compensation benefits, and injury leave or other leave benefits. There shall be no  
18 employer-employee relationship between the parties, and CONTRACTOR shall hold  
19 CAP harmless from any and all claims that may be made against CAP based upon any  
20 contention by a third party that an employer-employee relationship exists by reason of  
21 this Agreement. It is further understood and agreed by the parties that CONTRACTOR  
22 in the performance of this Agreement is subject to the control or direction of CAP merely  
23 as to the results to be accomplished and not as to the means and methods for  
24 accomplishing the results.

25 **9.2** CONTRACTOR warrants that it shall make its best effort to fully comply  
26 with all federal and state statutes and regulations regarding the employment of aliens  
27 and others and to ensure that employees performing work under this Agreement meet  
28 the citizenship or alien status requirement set forth in federal statutes and regulations.

1 CONTRACTOR shall obtain, from all employees performing work hereunder, all  
2 verification and other documentation of employment eligibility status required by federal  
3 or state statutes and regulations including, but not limited to, the Immigration Reform and  
4 Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be  
5 hereafter amended. CONTRACTOR shall retain all such documentation for all covered  
6 employees, for the period prescribed by the law.

7  
8 **10. Subcontract for Work or Services**

9 No contract shall be made by CONTRACTOR with any other party for furnishing  
10 any of the work or services under this Agreement without the prior written approval of  
11 CAP Riverside, but this provision shall not require the approval of contracts of  
12 employment between CONTRACTOR and personnel assigned under this Agreement, or  
13 for parties previously named in the RFQ and agreed to under this Agreement.

14  
15 **11. Disputes**

16 **11.1** The parties shall attempt to resolve any disputes amicably at the working  
17 level. If that is not successful, the dispute shall be referred to the senior management of  
18 the parties. Any dispute relating to this Agreement which is not resolved by the parties  
19 shall be decided by the Contracting Officer who shall furnish the decision in writing. The  
20 decision of the Contracting Officer shall be final and conclusive unless determined by a  
21 court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so  
22 grossly erroneous as necessarily to imply bad faith.

23 **11.2** CONTRACTOR shall not delay or postpone any Work pending resolution  
24 of any disputes or disagreements, except as the COUNTY or CONTRACTOR may  
25 otherwise agree in writing. Pending final resolution of a dispute and/or claim, the  
26 CONTRACTOR shall proceed diligently with performance of the Agreement and the  
27 COUNTY shall continue to make payments for undisputed Work in accordance with the  
28 Agreement Documents. CONTRACTOR shall proceed diligently with the performance of

1 this Agreement pending the resolution of a dispute.

2       **11.3** Prior to the filing of any legal action related to this Agreement, the parties  
3 shall be obligated to attend a mediation session in Riverside County before a neutral  
4 third-party mediator. A second mediation session shall be required if the first session is  
5 not successful. The parties shall share the cost of the mediations. Each party shall be  
6 responsible for its own legal fees and other expenses incident to the preparation for  
7 mediation.

8  
9 **12. Licensing and Permits**

10       CONTRACTOR shall comply with all State or other licensing requirements,  
11 including but not limited to the provisions of Chapter 9 of Division 3 of the Business and  
12 Professions Code. All licensing requirements shall be met at the time proposals are  
13 submitted to CAP. CONTRACTOR warrants that it has all necessary permits, approvals,  
14 certificates, waivers and exemptions necessary for performance of this Agreement as  
15 required by the laws and regulations of the United States, the State of California, the  
16 County of Riverside and all other governmental agencies with jurisdiction, and shall  
17 maintain these throughout the term of this Agreement.

18  
19 **13. Data Security**

20       **13.1 Definitions:** Capitalized terms used herein shall have the meanings set  
21 forth in this Paragraph 13.

22       “Authorized Employees” means CONTRACTOR’S employees who have a need  
23 to know or otherwise access Personal Information to enable CONTRACTOR to perform  
24 its obligations under this Agreement.

25       “Authorized Persons” means (i) Authorized Employees; and (ii) CONTRACTOR’S  
26 subcontractors, agents, and auditors who have a need to know or otherwise access  
27 Personal Information to enable CONTRACTOR to perform its obligations under this  
28 Agreement, and who are bound in writing by confidentiality obligations sufficient to

1 protect Personal Information in accordance with the terms and conditions of this  
2 Agreement.

3 "Highly-Sensitive Personal Information" means an (i) individual's government-  
4 issued identification number (including social security number, driver's license number  
5 or state-issued identified number); (ii) financial account number, credit card number,  
6 debit card number, credit report information, with or without any required security code,  
7 access code, personal identification number or password, that would permit access to  
8 an individual's financial account; or (iii) biometric or health data.

9 "Personal Information" means information provided to CONTRACTOR by or at  
10 the direction of CAP, or to which access was provided to CONTRACTOR by or at the  
11 direction of CAP, in the course of CONTRACTOR'S performance under this Agreement  
12 that: (i) identifies or can be used to identify an individual (including, without limitation,  
13 names, signatures, addresses, telephone numbers, e-mail addresses and other unique  
14 identifiers); or (ii) can be used to authenticate an individual (including, without limitation,  
15 employee identification numbers, government-issued identification numbers, passwords  
16 or PINs, financial account numbers, credit report information, biometric or health data,  
17 answers to security questions and other personal identifiers), in case of both subclauses  
18 (i) and (ii), including, without limitation, all Highly-Sensitive Personal Information.  
19 Business contact information is not by itself deemed to be Personal Information.

20 **13.2** Standard of Care:

21 **A.** CONTRACTOR acknowledges and agrees that, in the course of its  
22 engagement by CAP, CONTRACTOR may receive or have access to Personal  
23 Information. CONTRACTOR shall comply with the terms and conditions set forth in this  
24 Agreement in its collection, receipt, transmission, storage, disposal, use and disclosure  
25 of such Personal Information and be responsible for the unauthorized collection, receipt,  
26 transmission, access, storage, disposal, use and disclosure of Personal Information  
27 under its control or in its possession by all Authorized Employees/Authorized Persons.  
28 CONTRACTOR shall be responsible for, and remain liable to, CAP for the actions and

1 omissions of all Authorized Persons that are not Authorized Employees concerning the  
2 treatment of Personal Information as if they were CONTRACTOR's own actions and  
3 omissions.

4 **B.** Personal Information is deemed to be Confidential Information of CAP and is  
5 not Confidential Information of CONTRACTOR. In the event of a conflict or inconsistency  
6 between this Section 13 and compliance with California law, the terms and conditions  
7 set forth in this Section 13 shall govern and control.

8 **C.** In recognition of the foregoing, CONTRACTOR agrees and covenants that it  
9 shall:

10 (i) keep and maintain all Personal Information in strict confidence, using such  
11 degree of care as is appropriate to avoid unauthorized access, use or disclosure;

12 (ii) use and disclose Personal Information solely and exclusively for the purposes  
13 for which the Personal Information, or access to it, is provided pursuant to the  
14 terms and conditions of this Agreement, and not use, sell, rent, transfer, distribute,  
15 or otherwise disclose or make available Personal Information for  
16 CONTRACTOR'S own purposes or for the benefit of anyone other than CAP, in  
17 each case, without CAP'S prior written consent; and

18 (iii) not, directly or indirectly, disclose Personal Information to any person other  
19 than its Authorized Employees/Authorized Persons, (an "Unauthorized Third  
20 Party"), without express written consent from CAP, unless and to the extent  
21 required by government authorities or as otherwise to the extent expressly  
22 required by applicable law, in which case, CONTRACTOR shall (i) use best efforts  
23 to notify CAP before such disclosure or as soon thereafter as reasonably possible;  
24 and (ii) require the Unauthorized Third Party that has access to Personal  
25 Information to execute a written agreement agreeing to comply with the terms and  
26 conditions of this Agreement relating to the treatment of Personal Information.

27 **13.3 Information Security:**

28 **A.** CONTRACTOR represents and warrants that its collection, access, use,

1 storage, disposal and disclosure of Personal Information does and will comply with all  
2 applicable federal, state, privacy and data protection laws, as well as all other applicable  
3 regulations and directives.

4 **B.** At a minimum, CONTRACTOR'S safeguards for the protection of Personal  
5 Information shall include: (i) limiting access of Personal Information to Authorized  
6 Employees/Authorized Persons; (ii) securing business facilities, data centers, paper files,  
7 servers, back-up systems and computing equipment, including, but not limited to, all  
8 mobile devices and other equipment with information storage capability; (iii)  
9 implementing network, device application, database and platform security; (iv) securing  
10 information transmission, storage and disposal; (v) implementing authentication and  
11 access controls within media, applications, operating systems and equipment; (vi)  
12 encrypting Highly-Sensitive Personal Information stored on any mobile media; (vii)  
13 encrypting Highly-Sensitive Personal Information transmitted over public or wireless  
14 networks; (viii) strictly segregating Personal Information from information of  
15 CONTRACTOR or its other customers so that Personal Information is not commingled  
16 with any other types of information; (ix) implementing appropriate personnel security and  
17 integrity procedures and practices, including, but not limited to, conducting background  
18 checks consistent with applicable law; and (x) providing appropriate privacy and  
19 information security training to CONTRACTOR'S employees.

20  
21 **14. Non-Discrimination**

22 CONTRACTOR shall not discriminate in the provision of services, allocation of  
23 benefits, accommodation in facilities, or employment of personnel on the basis of ethnic  
24 group identification, race, religious creed, color, national origin, ancestry, physical  
25 handicap, medical condition, marital status or sex in the performance of this Agreement;  
26 and, to the extent they shall be found to be applicable hereto, shall comply with the  
27 provisions of the California Fair Employment Practices Act (commencing with Section  
28 1410 of the Labor Code), the Federal Civil Rights Act of 1964 (P.L. 88-352), the

1 Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) and all other  
2 applicable laws or regulations.

3  
4 **15. Records and Documents**

5 CONTRACTOR shall make available, upon written request by any duly authorized  
6 Federal, State or County agency, a copy of this Agreement and such books, documents  
7 and records as are necessary to certify the nature and extent of the CONTRACTOR'S  
8 costs related to this Agreement. All such books, documents and records shall be  
9 maintained by CONTRACTOR for at least five (5) years following termination of this  
10 Agreement and be available for audit by CAP. CONTRACTOR shall provide to CAP  
11 reports and information related to this Agreement as requested by CAP.

12  
13 **16. Confidentiality**

14 **16.1** CONTRACTOR shall not use for personal gain or make other improper use  
15 of privileged or confidential information which is acquired in connection with this  
16 Agreement. The term "privileged or confidential information" includes but is not limited to:  
17 unpublished or sensitive technological or scientific information; medical, personnel, or  
18 security records; anticipated material requirements or pricing/purchasing actions; CAP  
19 information or data which is not subject to public disclosure; CAP operational procedures;  
20 and knowledge of selection of contractors, subcontractors or suppliers in advance of  
21 official announcement.

22 **16.2** CONTRACTOR shall protect from unauthorized disclosure, names and  
23 other identifying information concerning persons receiving services pursuant to this  
24 Agreement, except for general statistical information not identifying any person.  
25 CONTRACTOR shall not use such information for any purpose other than carrying out  
26 CONTRACTOR'S obligations under this Agreement. CONTRACTOR shall promptly  
27 transmit to CAP all third-party requests for disclosure of such information. CONTRACTOR  
28 shall not disclose, except as otherwise specifically permitted by this Agreement or

1 authorized in advance in writing by CAP, any such information to anyone other than CAP.  
2 For purposes of this Paragraph 16, identity shall include, but not be limited to, name, date  
3 of birth, social security number, symbol, identifying number, or other identifying particulars  
4 assigned to the individual, such as finger or voice print or a photograph.

5 **16.3** CONTRACTOR is subject to and shall operate in compliance with all  
6 relevant requirements contained in the Health Insurance Portability and Accountability  
7 Act (HIPAA) for sensitive patient data protection. Companies that deal with protected  
8 health information (PHI) must have physical, network, and process security measures in  
9 place and follow them to ensure HIPAA Compliance. Covered entities (anyone providing  
10 treatment, payment, and operations in healthcare) and business associates (anyone who  
11 has access to patient information and provides support in treatment, payment, or  
12 operations) must meet HIPAA Compliance. Other entities, such as subcontractors and  
13 any other related business associates must also be in compliance with HIPPA and the  
14 related laws and regulations promulgated subsequent thereto.

15  
16 **17. Administration/Contract Liaison**

17 The Executive Director or designee, shall administer this Agreement on behalf of  
18 CAP and is authorized to take any and all actions on behalf of CAP as set forth herein  
19 and to terminate services in accordance with Paragraph 5 of this Agreement. Whenever  
20 a reference is made herein to an action or approval to be undertaken by CAP, the  
21 Executive Director, or designee, is authorized to act unless this Agreement specifically  
22 provides otherwise.

23  
24 **18. Notices**

25 All correspondence and notices required or contemplated by this Agreement shall  
26 be delivered to the respective parties at the addresses set forth below, or at such other  
27 address provided by a party in writing, and are deemed submitted one (1) day after their  
28 deposit in the United States Mail, postage prepaid:



1           **CAP**

2           Community Action Partnership - Riverside  
3           2038 Iowa Avenue Ste. B-102 Riverside, CA 92507  
4           Attention: Executive Director

5           **CONTRACTOR**

6           [Attn: NAME]  
7           [TITLE]  
8           [ADDRESS], CA 92xxx  
9           [PHONE #]  
10          [EMAIL]

11          **19.   Force Majeure**

12           If either party is unable to comply with any provision of this Agreement due to  
13           causes beyond its reasonable control, and which could not have been reasonably  
14           anticipated, such as Acts of God, acts of war, civil disorders, or other similar acts, such  
15           party shall not be held liable for such failure to comply, provided the subject party  
16           provides written notice to the other party no later than five (5) days after the  
17           commencement of such force majeure event.

18          **20.   EDD Reporting Requirements**

19           In order to comply with child support enforcement requirements of the State of  
20           California, CAP may be required to submit a Report of Independent Contractor(s) form  
21           **DE 542** to the Employment Development Department ("EDD"). CONTRACTOR agrees  
22           to furnish the required data and certifications to the CAP within 10 days of notification of  
23           award of Agreement when required by the EDD. This data will be transmitted to  
24           governmental agencies charged with the establishment and enforcement of child support  
25           orders. Failure of CONTRACTOR to timely submit the data and/or certificates required  
26           may result in the contract being award to another CONTRACTOR. In the event a contract  
27           has been issued, failure of CONTRACTOR to comply with all federal and state reporting  
28           requirements for child support enforcement or to comply with all lawfully served Wage  
            and Earnings Assignments Orders and Notice of Assignment shall constitute a material

1 breach of Agreement. If CONTRACTOR has any questions concerning this reporting  
2 requirement, please call (916) 657-0529. CONTRACTOR should also contact its local  
3 Employment Tax Customer Service Office listed in the telephone directory in the State  
4 Government section under "Employment Development Department" or access their  
5 Internet site at [www.edd.ca.gov](http://www.edd.ca.gov).

6  
7 **21. Hold Harmless/Indemnification**

8 **21.1** CONTRACTOR shall indemnify and hold harmless Community Action  
9 Partnership Riverside, the County of Riverside, its Agencies, Districts, Special Districts  
10 and Departments, their respective directors, officers, Board of Supervisors, elected and  
11 appointed officials, employees, agents and representatives (collectively, "Indemnified  
12 Parties") from any liability, claim, damage or action whatsoever, based or asserted upon  
13 any act or omission of CONTRACTOR, its officers, employees, subcontractors, agents  
14 or representatives arising out of or in any way relating to this Agreement, including but  
15 not limited to property damage, bodily injury, or death. CONTRACTOR shall defend, at  
16 its sole cost and expense, including but not limited to attorney fees, cost of investigation,  
17 defense and settlements or awards, the Community Action Partnership - Riverside, the  
18 County of Riverside, its respective Agencies, Districts, Special Districts and  
19 Departments, their respective directors, officers, Board of Supervisors, Board of  
20 Commissioners, elected and appointed officials, employees, agents and representatives  
21 in any such action or claim.

22 **21.2** With respect to any action or claim subject to indemnification herein by  
23 CONTRACTOR, CONTRACTOR shall, at its sole cost, have the right to use counsel of  
24 its own choice and shall have the right to adjust, settle, or compromise any such action  
25 or claim without the prior consent of CAP; provided, however, that any such adjustment,  
26 settlement or compromise in no manner whatsoever limits or circumscribes  
27 CONTRACTOR'S indemnification of CAP and the Indemnified Parties.

28

1           **21.3** CONTRACTOR'S obligations hereunder shall be satisfied when  
2 CONTRACTOR has provided to CAP the appropriate form of dismissal (or similar  
3 document) relieving CAP from any liability for the action or claim involved.

4           **21.4** The specified insurance limits required in this Agreement shall in no way  
5 limit or circumscribe CONTRACTOR'S obligations to indemnify and hold harmless CAP  
6 Riverside and Indemnified Parties.

7           **21.5** In the event there is conflict between this clause and California Civil Code  
8 Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such  
9 interpretation shall not relieve CONTRACTOR from indemnifying CAP to the fullest  
10 extent allowed by law. The indemnification and hold harmless obligations set forth in  
11 this Paragraph 21 shall survive the termination and expiration of this Agreement.

12  
13 **22. Insurance**

14           Without limiting or diminishing CONTRACTOR'S obligation to indemnify or hold  
15 CAP harmless, CONTRACTOR shall procure and maintain or cause to be maintained,  
16 at its sole cost and expense, the following insurance coverage during the term of this  
17 Agreement. As respects to the insurance section only, CAP herein refers to the  
18 Community Action Partnership - Riverside, the County of Riverside, its respective  
19 Agencies, Districts, Special Districts, and Departments, their respective directors,  
20 officers, Board of Supervisors, Board of Commissioners, employees, volunteers, elected  
21 or appointed officials, agents, or representatives as Additional Insureds.

22           **A. Workers' Compensation:**

23           If the CONTRACTOR has employees as defined by the State of California, the  
24 CONTRACTOR shall maintain statutory Workers' Compensation Insurance  
25 (Coverage A) as prescribed by the laws of the State of California. Policy shall  
26 include Employers' Liability (Coverage B) including Occupational Disease with  
27 limits not less than \$1,000,000 per person per accident. The policy shall be  
28

1 endorsed to waive subrogation in favor of CAP.

2 **B. Commercial General Liability:**

3 Commercial General Liability insurance coverage, including but not limited to,  
4 premises liability, unmodified contractual liability, products and completed  
5 operations liability, personal and advertising injury, and cross liability coverage,  
6 covering claims which may arise from or out of CONTRACTOR'S performance of  
7 its obligations hereunder. Policy shall name CAP as Additional Insured. Policy's  
8 limit of liability shall not be less than \$2,000,000 per occurrence combined single  
9 limit. If such insurance contains a general aggregate limit, it shall apply separately  
10 to this agreement or be no less than two (2) times the occurrence limit.

11 **C. Vehicle Liability:**

12 If vehicles or mobile equipment are used in the performance of the obligations  
13 under this Agreement, then CONTRACTOR shall maintain liability insurance for all  
14 owned, non-owned or hired vehicles so used in an amount not less than  
15 \$1,000,000 per occurrence combined single limit. If such insurance contains a  
16 general aggregate limit, it shall apply separately to this agreement or be no less  
17 than two (2) times the occurrence limit. Policy shall name the CAP as Additional  
18 Insureds.

19 **D. Professional Liability:**

20 If required, CONTRACTOR shall maintain Professional Liability Insurance  
21 providing coverage for the CONTRACTOR'S performance of work included within  
22 this Agreement, with a limit of liability of not less than \$1,000,000 per occurrence  
23 and \$2,000,000 annual aggregate. If CONTRACTOR'S Professional Liability  
24 Insurance is written on a claims made basis rather than an occurrence basis, such  
25 insurance shall continue through the term of this Agreement and CONTRACTOR  
26 shall purchase at his sole expense either:

- 27  
28 1) An Extended Reporting Endorsement (also, known as Tail Coverage); or

1           2) Prior Dates Coverage from new insurer with a retroactive date back to  
2           the date of, or prior to, the inception of this Agreement; or,

3           3) Demonstrate through Certificates of Insurance that CONTRACTOR has  
4           maintained continuous coverage with the same or original  
5           insurer. Coverage provided under items; 1), 2) or 3) will continue as long  
6           as the law allows.

7           **E. General Insurance Provisions - All lines:**

8           1) Any insurance carrier providing insurance coverage hereunder shall be  
9           admitted to the State of California and have an A M BEST rating of not less  
10          than A: VIII (A:8) unless such requirements are waived, in writing, by the  
11          County of Riverside's Risk Manager. If the County's Risk Manager waives  
12          a requirement for a particular insurer such waiver is only valid for that  
13          specific insurer and only for one policy term.

14          2) The CONTRACTOR shall declare its insurance self-insured retention for  
15          each coverage required herein. If any such self-insured retention exceeds  
16          \$500,000 per occurrence each such retention shall have the prior written  
17          consent of the Risk Manager before the commencement of operations  
18          under this Agreement. Upon notification of self-insured retention  
19          unacceptable to CAP, and at the election of the County's Risk Manager,  
20          CONTRACTOR'S carriers shall either; 1) Reduce or eliminate such self-  
21          insured retention as respects this Agreement with CAP, or 2) Procure a  
22          bond which guarantees payment of losses and related investigations,  
23          claims administration, and defense costs and expenses.

24          3) CONTRACTOR shall cause CONTRACTOR'S insurance carrier(s) to  
25          furnish CAP with either 1) a properly executed original Certificate(s) of  
26          Insurance and certified original copies of Endorsements effecting coverage  
27          as required herein, and 2) if requested to do so orally or in writing by the  
28

1 County's Risk Manager, provide original Certified copies of policies  
2 including all Endorsements and all attachments thereto, showing such  
3 insurance is in full force and effect. Further, said Certificate(s), and policies  
4 of insurance shall contain the covenant of the insurance carrier(s) that thirty  
5 (30) days written notice shall be given to CAP prior to any material  
6 modification, cancellation, expiration or reduction in coverage of such  
7 insurance. In the event of a material modification, cancellation, expiration,  
8 or reduction in coverage, this Agreement shall terminate forthwith, unless  
9 the CAP receives, prior to such effective date, another properly executed  
10 original Certificate of Insurance and original copies of endorsements or  
11 certified original policies, including all endorsements and attachments  
12 thereto evidencing coverage's set forth herein and the insurance required  
13 herein is in full force and effect. **CONTRACTOR shall not commence**  
14 **operations until CAP has been furnished original Certificate(s) of**  
15 **Insurance and certified original copies of endorsements and if**  
16 **requested, review original of the policies of insurance including all**  
17 **endorsements and any and all other attachments as required in this**  
18 **Section. An individual authorized by the insurance carrier to do so on**  
19 **its behalf shall sign the original endorsements for each policy and the**  
20 **Certificate of Insurance. Upon CAP'S request, CONTRACTOR shall**  
21 **make available for inspection by County's Risk Manager, at a mutually**  
22 **agreeable location, copies of CONTRACTOR'S insurance policies.**

23 4) It is understood and agreed to by the parties hereto and the insurance  
24 company(s) that the CONTRACTOR'S insurance shall be construed as  
25 primary insurance, and CAP'S insurance and/or deductible and/or self-  
26 insured retentions' or self-insured programs shall not be construed as  
27 contributory.

28 5) If, during the term of this Agreement or any extension thereof, there is a

1 material change in the Scope of Service or, there is a material change in  
2 the equipment to be used in the performance of the Scope of Service or,  
3 the term of this Agreement, including any extensions thereof, exceeds five  
4 (5) years; CAP reserves the right to adjust the types of insurance and the  
5 monetary limits of liability required under this Agreement, if in the County's  
6 Risk Manager's reasonable judgment, the amount or type of insurance  
7 carried by the CONTRACTOR has become inadequate.

8 6) CONTRACTOR shall pass down the insurance obligations contained  
9 herein to all tiers of subcontractors working under this Agreement.

10 7) The insurance requirements contained in this Agreement may be met  
11 with a program(s) of self-insurance acceptable to CAP.

12 8) CONTRACTOR agrees to notify CAP of any claim by a third party or any  
13 incident or event that may give rise to a claim arising from the performance  
14 of this Agreement.

15  
16 **23. General**

17 **23.1** CONTRACTOR shall not delegate or assign any interest in this Agreement,  
18 whether by operation of law or otherwise, without the prior written consent of CAP.

19 **23.2** Any waiver by CAP of any breach of any one or more of the terms of this  
20 Agreement shall not be construed to be a waiver of any subsequent or other breach of  
21 the same or of any other term of this Agreement. Failure on the part of CAP to require  
22 exact, full and complete compliance with any terms of this Agreement shall not be  
23 construed as in any manner changing the terms or estopping CAP from enforcement of  
24 the terms of this Agreement.

25 **23.3** In the event CONTRACTOR receives payment under this Agreement  
26 which is later disallowed by CAP Riverside for nonconformance with the terms of the  
27 Agreement, CONTRACTOR shall promptly refund the disallowed amount to CAP on  
28

1 request; or at its option, CAP may offset the amount disallowed from any payment due  
2 to CONTRACTOR.

3 **23.4** CONTRACTOR shall not provide partial delivery or shipment of services  
4 or products unless specifically stated in the Agreement.

5 **23.5** CONTRACTOR shall not provide any services or products subject to any  
6 chattel mortgage or under a conditional sales contract or other agreement by which an  
7 interest is retained by a third party. The CONTRACTOR warrants that it has good title to  
8 all materials or products used by CONTRACTOR or provided to CAP pursuant to this  
9 Agreement, free from all liens, claims, or encumbrances.

10 **23.6** Nothing in this Agreement shall prohibit CAP from acquiring the same type  
11 or equivalent equipment, products, materials or services from other sources, when  
12 deemed by CAP to be in its best interest. CAP reserves the right to purchase more or  
13 less than the quantities specified in this Agreement.

14 **23.7** CAP agrees to cooperate with CONTRACTOR in the CONTRACTOR'S  
15 performance under this Agreement, including, if stated in the Agreement, providing the  
16 CONTRACTOR with reasonable facilities and timely access to CAP data, information  
17 and personnel.

18 **23.8** CONTRACTOR warrants that during the term of this Agreement, the  
19 CONTRACTOR shall retain sufficient financial resources necessary to perform all  
20 aspects of its obligations, as described under this Agreement. Further, the  
21 CONTRACTOR warrants that there has been no adverse material change in the  
22 CONTRACTOR, parent, or subsidiary business entities, resulting in negative impact to  
23 the financial condition and circumstances of the CONTRACTOR since the date of this  
24 most recent financial statements.

25 **23.9** CONTRACTOR shall comply with all applicable Federal, State and local  
26 laws and regulations. CONTRACTOR shall comply with all applicable CAP policies and  
27 procedures. In the event that there is a conflict between the various laws or regulations  
28 that may apply, CONTRACTOR shall comply with the more restrictive law or regulation.



1           **23.10** CONTRACTOR shall comply with all air pollution control, water pollution,  
2 safety and health ordinances, statutes, or regulations, which apply to performance under  
3 this Agreement.

4           **23.11** CONTRACTOR shall comply with all requirements of the Occupational  
5 Safety and Health Administration (OSHA) standards and codes as set forth by the U.S.  
6 Department of Labor and the State of California (Cal/OSHA).

7           **23.12** This Agreement shall be governed by the laws of the State of California.  
8 Any legal action related to the performance or interpretation of this Agreement shall be  
9 filed only in the Superior Court of the State of California located in Riverside, California,  
10 and the parties waive any provision of law providing for a change of venue to another  
11 location. In the event any provision in this Agreement is held by a court of competent  
12 jurisdiction to be invalid, void, or unenforceable, the remaining provisions will  
13 nevertheless continue in full force without being impaired or invalidated in any way.

14  
15           **24.    Online Access:**

16           All of the California State Community Services and Development Department  
17 (CSD) compliance documents are available on-line on the CSD web site at:  
18 <http://www.providers.csd.ca.gov> (On-line registration is required for access to the CSD  
19 web site.)

20  
21           **25.    Lead Hazards (Pre-1979 Buildings):**

22           In Pre-1979 dwellings, CONTRACTOR is to proceed as though a lead hazard  
23 exists, performing in a manner to protect against that hazard in accordance with CSD  
24 Lead Safe Weatherization and EPA Renovations Rules.

25  
26           **26.    Nonliability of CAP Officials and CAP Riverside Employees**

27           No member, official employee, consultant or volunteer of CAP Riverside shall be  
28 personally liable to the CONTRACTOR, or any successor in interest, in the event of any

1 default or breach by the CAP for any amount which may become due to the  
2 CONTRACTOR or to its successor, or on any obligation under the terms of this  
3 Agreement.

4  
5 **27. No Third Party Beneficiaries**

6 The parties intend that no rights nor remedies be granted to any third party as a  
7 beneficiary of this Agreement or of any covenant, duty, obligation or undertaking  
8 established herein.

9  
10 **28. Entire Agreement**

11 This Agreement, including any attachments or exhibits, constitutes the entire  
12 Agreement of the parties with respect to its subject matter and supersedes all prior and  
13 contemporaneous representations, proposals, discussions and communications,  
14 whether oral or in writing. This Agreement may be changed or modified only by a written  
15 amendment signed by authorized representatives of both parties.

16  
17 **29. Counterparts/Digital Signature**

18 This Agreement may be executed in any number of counterparts, each of which  
19 will be an original, but all of which together will constitute one instrument. The Parties  
20 agrees to the use of electronic signatures, such as digital signatures that meet the  
21 requirements of the California Uniform Electronic Transactions Act (“CUETA”) Cal. Civ.  
22 Code §§ 1633.1 to 1633.17). The Parties further agree that the electronic signatures of  
23 the parties included in this Agreement are intended to authenticate this writing and to  
24 have the same force and effect as manual signatures. Electronic signature means an  
25 electronic sound, symbol, or process attached to or logically associated with an electronic  
26 record and executed or adopted by a person with the intent to sign the electronic record  
27 pursuant to CUETA as amended from time to time. Digital signature means an electronic  
28 identifier, created by computer, intended by the Party using it to have the same force and

1 effect as the use of a manual signature, and shall be reasonably relied upon by the  
2 Parties. For purposes of this section, a digital signature is a type of "electronic signature"  
3 as defined in subdivision (i) of Section 1633.2 of the Civil Code.

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[Signatures on Next Page]

1 IN WITNESS WHEREOF, the parties hereto have caused their duly authorized  
2 representatives to execute this Agreement as of the dates set forth below:

3  
4 **COUNTY OF RIVERSIDE:**

5 a political subdivision of the State of  
6 California, on behalf of its Department of  
7 Housing and Workforce  
Solution/Community Action Partnership  
Agency

**CONTRACTOR:**

[NAME], a California corporation

8  
9 By: FORM COPY - DO NOT SIGN  
10 Heidi Marshall  
Director

By: FORM COPY - DO NOT SIGN  
[NAME],  
CEO

11  
12 Dated: \_\_\_\_\_

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

13  
14  
15 **APPROVED AS TO FORM:**

16 Minh C. Tran  
17 County Counsel

18  
19   
20 By: \_\_\_\_\_  
21 Paula S. Salcido,  
22 Deputy County Counsel

1 **EXHIBIT "A"**

2 **SCOPE OF SERVICES**

3 [NAME], a California corporation, ("CONTRACTOR") shall provide the following services  
4 to the County of Riverside's Department of Workforce Solutions/Community Action  
5 Partnership Agency ("CAP") as required in that certain Professional Services Agreement  
6 for Weatherization Services, ("Agreement").

7 CONTRACTOR shall provide CAP clients with all weatherization services according to  
8 CAP issued Work Orders ("W.O.") and other guidelines for its low-income, single and  
9 multi-family households within all areas of Riverside County as required.

- 10 1. CONTRACTOR shall furnish sufficient personnel with the technical knowledge and  
11 experience necessary to complete the work as described herein.
- 12 2. All tools, materials, and equipment shall be provided by the CONTRACTOR and must  
13 meet all local applicable building and safety requirements.
- 14 3. All work shall be performed in accordance with local safety standards and recognized  
15 safe practices.
- 16 4. All CONTRACTORS must be fully licensed and insured as required by applicable law  
17 or regulation.
- 18 5. CAP will be solely responsible for client outreach, intake and assessment.
- 19 6. CAP will develop a Work Order ("W.O.") for each dwelling, detailing the measures  
20 identified through its own Weatherization Assessment. This W.O. shall be the Scope  
21 of Work for the CONTRACTOR to quote the job. CONTRACTOR shall provide its  
22 quote and submit back to CAP for approval before beginning any work.
- 23 7. A certified CAP Assessor/Inspector will conduct a weatherization assessment on  
24 each household which shall serve as the Scope of Work for that particular job. Each  
25 job shall be conducted as follows:
  - 26 a. Material shall be installed in accordance with the specifications and policies  
27 outlined in the Weatherization Installation Standards (WIS), the Weatherization  
28 Field Guide (FG), State and local law, and 10 CFR 440 Appendix A, Standards  
for Weatherization Material. CONTRACTOR must be able to provide all  
measures – labor and materials – specified in the Weatherization Measure  
Matrix (attached hereto as Exhibit "B") in accordance with all applicable  
federal, state, county, and local standards and specifications. All prices are for  
weatherization measures installed according to industry and program  
standards and include labor, material, job site cleanup, overhead, and all other  
costs. Prices should reflect all costs associated with the CONTRACTOR'S

1 delivery, installation, and administration of the weatherization program. All  
2 materials used in the weatherization program must meet the specification of  
the various funding authorities.

3 b. CONTRACTOR shall not perform any measures on any W.O. which violates  
4 the General Conditions, including those which would cause the total allowable  
5 cost to be exceeded, (see Exhibit "B"); or any measures deemed non-feasible.

6 c. In the event that CONTRACTOR visits a dwelling and discovers additional  
7 measures not covered in the W.O., CONTRACTOR must submit a Change  
8 Request via an Amended Work Order (A.W.O.) with updated pricing for CAP'S  
9 approval. Change Request work cannot be completed without CAP'S prior  
10 written approval.

11 d. CONTRACTORS shall apply for and obtain permits with the appropriate  
12 jurisdiction for all work performed under this contract in accordance with local  
13 jurisdiction and program guidelines requiring a permit, e.g., roofing, windows,  
14 insulation. CONTRACTORS shall arrange for inspections by appropriate local  
15 entities and ensure that final inspections are satisfactorily completed and  
16 documented.

17 e. CONTRACTOR is responsible for verifying all measures have been completed  
18 satisfactorily in compliance with the terms of this Agreement. The cost of this  
19 verification is not separately reimbursable and is to be included in  
20 CONTRACTOR'S loaded labor rate for measures performed. CAP reserves  
21 the right to determine what constitutes the satisfactory completion of the work  
22 performed by CONTRACTORS under this contract, and to require reasonable  
23 corrections or additional work above and beyond that which might be required  
24 by governing building codes.

25 f. CONTRACTOR has five (5) business days from date of receipt of CAP'S W.O.  
26 to complete and submit a complete quote in writing back to CAP.

27 g. CONTRACTOR has thirty (30) working days to complete all measures  
28 identified on the W.O. and submit a Statement of Work file (SOW) back to CAP  
for scheduling of Final Inspection. Failure to submit the SOW before the thirty-  
day deadline without proper justification, can result in CAP rescinding the job  
and payment for any measures installed.

h. Proper justification for extended job timelines must be submitted to CAP prior  
to the thirty-day deadline and is the responsibility of CONTRACTOR to monitor  
and control.

8. Inspection: CAP will perform a complete inspection of CONTRACTOR'S work for  
compliance with the terms of this Agreement. CONTRACTOR must complete all work  
to the satisfaction of CAP before receiving payment.

- 1 9. Any items identified on inspection as incomplete by CONTRACTOR, that are not  
2 remedied through process of Inspection Corrections (see below) and completed in-  
house by CAP will be reimbursed to CAP against CONTRACTOR'S final invoice.
- 3 10. Inspection Corrections: CAP will identify any and all necessary corrections needed  
4 on a particular jobsite at the time of initial inspection and forward those to the  
5 CONTRACTOR for remediation. CONTRACTOR shall collaborate with CAP on the  
6 scheduling of the listed corrections. CAP will verify corrections with the  
CONTRACTOR at the jobsite, on the day scheduled.
- 7 11. CONTRACTOR has five (5) business days to either complete corrections or inform  
8 CAP of necessity for additional time to complete corrections.
- 9 12. In the event additional corrections remain post meeting for an onsite Correction  
10 Verification appointment and/or if CONTRACTOR fails to schedule a Correction  
11 Verification appointment with CAP, CAP will complete a follow-up inspection and a  
\$25 fee will be charged against CONTRACTOR'S final invoice for each additional  
follow-up inspection.
- 12 13. File Submission: CONTRACTOR agrees to follow all procedures that identify how to  
13 properly complete and submit all required paperwork and billing files, according to  
14 policy and procedures to be provided by CAP (the Subcontractor Billing Procedures).
- 15 14. Lead Safe Work Practice and EPA Renovator Certification: Participating  
16 CONTRACTORS and all crew members performing work on a W.O. from CAP must  
17 attend training and receive certification in Lead Safe Work Practices (LSWP) and EPA  
18 Renovator. Individuals who are not certified shall not be permitted to supervise and/or  
19 work on the homes to be weatherized. CAP reserves the right to require recertification  
of LSWP/EPA of any of CONTRACTORS' employees or those individuals who  
perform work or services for the CONTRACTOR on a W.O. from CAP.
- 20 15. Warranty: CONTRACTOR hereby warrant its work against all deficiencies and  
21 defects in workmanship and materials for the full term required by applicable law or  
22 the term that is given by the suppliers or manufacturers of any materials involved, but  
in no event less than one (1) year and or outlined by WIS, Field, and CSD from the  
date of substantial completion of each job.
- 23 16. CONTRACTOR shall at its own cost and expense promptly amend and make good  
24 any defective workmanship and materials to the entire approval and acceptance of  
25 CAP. Additional cost incurred (mileage, crew hourly wage, additional material, etc.),  
will be made at the expense of the CONTRACTOR.
- 26 17. In the event CAP must remedy defects or make changes, CAP may offset against  
27 any sums due or to become due to the CONTRACTOR, the costs incurred.
- 28

1 18. Management and Oversight: CAP is responsible to the CSD for performance of the  
2 all LIHEAP, ECIP and DOE Weatherization contracts and their use for clients in  
3 Riverside County. CAP will perform oversight integration of CONTRACTOR efforts  
4 with in-house efforts in a manner to ensure that all work performed on behalf of CAP  
5 follows CSD guidelines, Weatherization installation Standards (WIS), Field Guide and  
6 State/Local Building Safety Codes; is cost effective and conducted in a business-like  
7 manner at all times providing maximum client benefit derived from this Agreement  
8 and that the terms and conditions of the underlying Agreements are fully met. CAP  
9 shall provide consultation and technical assistance in carrying out the terms of this  
10 Agreement. CAP will provide oversight of CONTRACTOR efforts to include regular  
11 management reviews, review of documentation and other efforts deemed necessary  
12 to obtain quality subcontract performance. CAP will provide clarification of any  
13 Agreement terms and conditions as requested by CONTRACTOR, as well as updated  
14 information provided by funding source directly related to contractual performance  
15 and services.

16 19. Licensing Requirements: CONTRACTOR shall possess and maintain an active Class  
17 "B" General Building Contractor License, issued by the Contractors' State License  
18 Board (CLSB) in the name of the agency/qualifying individual and also:

- 19 a. Fulfill the requirement of and receive certification pursuant to the Toxic  
20 Substances Control Act (TCSA). Section 402;
- 21 b. Special licensing may also be required for the installation and or repair of  
22 appliances, space heaters, water heaters, solar, and Central HVAC units, if  
23 two or more weatherization measures are not installed in a single unit.  
24 Electrical wiring upgrade/replacement and knob and tube wiring certification  
25 will always require a C-10 license;
- 26 c. Possess all applicable licenses as required by the CSLB to carry out the  
27 installation and or repairs of Central HVAC Systems, Furnaces and Boilers;
- 28 d. CONTRACTOR is responsible for ensuring that all its subcontractors have an  
active license for their specialty and are in good standing for the duration of  
this Agreement; and
- e. CONTRACTOR shall notify CAP when any changes in licensing occur.

29 20. CONTRACTOR whose work potentially disturbs lead paint shall be an EPA Certified  
30 firm and have EPA Certified Renovators on staff.

31 21. Completion Timelines: CONTRACTOR shall communicate with CAP to coordinate  
32 post-inspection, Correction Verification appointments as necessary.

33 22. CONTRACTOR has five (5) business days to complete Inspection Corrections or  
34 inform CAP of necessity for additional time by providing documented justification.



1 23. CAP will process completed files for billing within thirty (30) business days after final  
2 invoice is requested and received. CONTRACTOR reserves the right to contact CAP  
3 at any point following the thirty-business day timeline of final invoice submission to  
4 inquire about payment status. Note: Failure to complete assigned dwellings within the  
5 required time frames may result in fewer job assignments or even work stoppage,  
6 current assignments being reassigned, and/or contract termination.

7 24. Certifications and Training - Lead Safe Work Practice and EPA Renovator  
8 Certification: Participating CONTRACTORS and all crew members performing work  
9 on a W.O. from CAP must attend training and receive certification in Lead Safe Work  
10 Practices (LSWP) and EPA Renovator. Individuals who are not certified will not be  
11 permitted to supervise and/or work on the homes to be weatherized. CAP reserves  
12 the right to require recertification of LSWP/EPA of any of CONTRACTORS'  
13 employees or those individuals who perform work or services for CONTRACTOR on  
14 a W.O. from CAP.

15 25. Other Certifications and Training: All participating crew members (CONTRACTOR  
16 employees and those individuals who perform work or services for CONTRACTOR  
17 on a W.O. from CAP) shall be trained as required by CSD; following a CSD-approved  
18 training curriculum. Training coursework must be successfully completed according  
19 to the terms of each course. Certificates of completion shall be issued by the CSD-  
20 approved training entity upon successful completion of each course. Certificates of  
21 completion shall be kept submitted to CAP and records must be kept by  
22 CONTRACTOR in the event or monitoring visit performed by CSD. All training records  
23 maintained in accordance with the certification and training requirements by CSD.  
24 Also, the following training will be required:

- 25 a. Within 30 days of employment, jobsite employees of CONTRACTOR shall  
26 receive Worksite Safety, Environmental Hazard Awareness and Lead-Safe  
27 Weatherization Training. No crew member, crew leader, worker or supervisor  
28 shall be allowed to enter or weatherize a dwelling unit until the required  
29 Worksite Safety, Environmental Hazards Awareness and Lead-Safe  
30 Weatherization Training has been completed.
- 31 b. Within ninety (90) days of employment, all weatherization employees of  
32 CONTRACTOR shall receive Basic Weatherization Training.
- 33 c. When job duties include duct leakage and shell leakage diagnostics,  
34 weatherization employees of CONTRACTOR shall receive Duct  
35 Leakage/Shell Leakage Diagnostic Training. No employee of CONTRACTOR  
36 shall perform diagnostic testing without having completed the required training.
- 37 d. Subsequent to successful completion of the Duct Leakage/Shell Leakage  
38 Diagnostic Training, CONTRACTOR employees are required to participate in  
39 a monitored field practice under the supervision of CAP, CAP authorized third-

1 party inspector and/or training provider to further evaluate employee  
2 knowledge and skill in this area of diagnostic testing.

- 3 e. Any CONTRACTOR failing to demonstrate appropriate knowledge and skills  
4 in this competency will be required to complete additional training to enhance  
5 deficient skill and knowledge and will be prohibited from performing this activity  
6 until the completion of required training.
- 7 f. No employee of CONTRACTOR shall perform Combustion Appliance Safety  
8 checks without having completed the required CSD-approved training.
- 9 g. Subsequent to the training, CONTRACTOR'S employees are required to  
10 participate in a monitored field practice under the supervision of CAP or CAP  
11 authorized third-party inspector and/or training provider to further evaluate  
12 employee knowledge and skill in this area of diagnostic testing.
- 13 h. Any CONTRACTOR failing to demonstrate appropriate knowledge and skills  
14 in this competency will be required to complete additional training to enhance  
15 deficient skill and knowledge and will be prohibited from performing this activity  
16 until the completion of required training.
- 17 i. CAP will cover training expenses in CSD-certified facilities provided that the  
18 CONTRACTOR covers any lodging/accommodations needed.

19 26. Equipment Calibration Records: Calibration records shall be maintained and made  
20 available for inspection request, as follows:

- 21 a. CSD Form 785 – Carbon Monoxer Analyzer Calibration Log  
22 b. CSD Form 786 – Manometer Calibration Log  
23 c. Blower Door Calibration Log  
24 d. Duct Blaster DG 700 9or equivalent) Calibration Log  
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**EXHIBIT "B"**  
**CONTRACTOR'S FORM OF QUOTE**  
**(behind this page)**

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**EXHIBIT "C"**  
**GENERAL CONDITIONS**  
**(behind this page)**

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Kristine,

Here are some citations for this item in case they are of use tomorrow:

- Notwithstanding any other provision of this Constitution or any other law, beginning on and after April 1, 2021, the following shall apply: (1) Subject to applicable procedures and definitions as provided by statute, an owner of a primary residence who is over 55 years of age, severely disabled, or a victim of a wildfire or natural disaster may transfer the taxable value of their primary residence to a replacement primary residence located anywhere in this state, regardless of the location or value of the replacement primary residence, that is purchased or newly constructed as that person's principal residence within two years of the sale of the original primary residence. Cal. Const., art. 13A, § 2.1
- Either the sale of the original property or the purchase or new construction of the replacement dwelling, but not both, may occur before April 1, 2021. Rev. & Tax. Code, § 69.6(b)(5)(A).
- Either the sale of the original primary residence or the purchase or new construction of the replacement primary residence, but not both, may occur before April 1, 2021. Cal. Code Regs., tit. 18, § 462.540(a)(1).
- <https://www.boe.ca.gov/prop19/#FAQs>
  2. **Does the State Board of Equalization have the authority to extend or change Proposition 19's operative dates of February 16, 2021 or April 1, 2021?**

Because the operative dates are part of the California Constitution, the State Board of Equalization (BOE) does not have the authority to extend or change Proposition 19's operative dates.
- Revenue and Taxation Code Section 69.5 applies to transactions that occurred prior to the April 1, 2021, effective date of Proposition 19. Therefore, the ACR must view Mr. Romero's transaction and application through the lens of those requirements (i.e., Props. 60/90).

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