

**CONTRA COSTA COUNTY
JOB ORDER CONTRACTS – 021, 022, 023 & 024**

**FILE: 000-2301
AUTHORIZATION NO. W4011C**

November 29, 2022

**PREPARED BY AND FOR:
PUBLIC WORKS DEPARTMENT
CAPITAL PROJECTS MANAGEMENT DIVISION
255 GLACIER DRIVE
MARTINEZ, CALIFORNIA 94553-4825
925-957-2480 FAX: 925-228-2437**

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DIVISION A. NOTICE TO CONTRACTORS
(Advertisement)

Notice is hereby given by order of the Board of Supervisors of Contra Costa County, that the Director of Public Works will receive bids for the furnishing of all labor, materials, equipment, transportation and services for:

JOB ORDER CONTRACTS 021, 022, 023 & 024

Authorization No. W4011C

Bid proposals shall be sealed and submitted to the Director of Public Works Department, Capital Projects Management Division, 255 Glacier Drive, Martinez, 94553-4825, on or before the 4th day of January 2023 at 2:00pm and will be opened in public immediately after the time due in the Capital Projects Management Division Conference Room G, 255 Glacier Drive, Martinez, California 94553-4825.

This Advertisement for bids is for the award of **four separate** Job Order Contracts (JOCs). A JOC is a competitively bid, Unit Price, indefinite quantity contract that is awarded to a Prime Contractor. Once awarded, work is accomplished through the issuance of individual Job Orders. Job Order Contracts 021, 022, 023 & 024, awarded under this solicitation will each have a Minimum Contract Value of \$25,000 and a Maximum Contract Value of \$2,500,000. The County reserves the right to issue Job Orders totaling less than the Maximum Contract Value. Each contract will be for a term of 12 months.

A bidder will be eligible for receiving only one of the contracts. The County anticipates advertising for additional JOC contract(s) in the future.

The Prime Contractor for this Job Order Contract shall hold a valid Class B General Building Contractor's license.

The work includes repair, alteration, modernization, maintenance, rehabilitation, and demolition work performed on buildings, offices, facilities, structures, infrastructure, or other real property.

The Contract Specifications may be examined at the County Public Works Department, Capital Projects Management Division at 40 Muir Road Second Floor, Martinez, California 94553-4897, Monday – Thursday (7:00 a.m. – 12:00 noon and 1:00 p.m. – 5:00 p.m.) and Friday (8:00 a.m. – 12:00 noon and 1:00 p.m. – 4:00 p.m.). The Construction Task Catalog (CTC), Technical Specifications, and Contract Specifications are not available for purchase at the 40 Muir Road location. The CTC, Technical Specifications, and Contract specifications (not including documents included by reference) and proposal forms may be obtained by prospective bidders via the Contra Costa County Public Works Department's Online Planroom at www.cccounty.us/cpmprojects. **A non-refundable service charge for bid documents is required in the amount of \$45.00 (sales tax included). Shipping charges are extra, depending on the delivery method.** The Capital Projects Management Division does not guarantee the arrival of the CTC and specifications in time for bidding. No partial sets will be

issued. There are no assurances to bidders who acquire bid documents from sources other than directly from the Contra Costa County Public Works Department's Online Plan Room that they will receive all of the project bid documents (including addenda). For more information about obtaining the CTC and specifications, please call Blueprint Express at (707) 745-3593.

Prospective bidders may obtain copies of the County's log of contractor plan holders on the web at www.cccounty.us/cpmprojects.

Technical questions regarding the contract documents shall be directed in writing to the Capital Projects Management Division, at fax number (925) 228-2437.

The bid shall be made on the bid form issued with the specifications, and must be accompanied by bid security in the form of cash, a certified check, cashier's check, or bid bond in the amount of ten percent (10%) of the potential Maximum Contract Value (\$2,500,000), made payable to the order of "The County of Contra Costa."

The bid security shall be given as a guarantee that the bidder will enter into a contract if awarded the work, and will be forfeited by the bidder and retained by the County if the successful bidder refuses, neglects or fails to enter into the contract or to furnish the necessary bonds and insurance certificates after being requested to do so by the County.

Bidders are hereby notified that securities may be substituted for any monies withheld by the County of Contra Costa to ensure performance under the construction contract, in accordance with Public Contract Code Section 22300 and the General Conditions of the Contract. Such securities shall be valued by the County Treasurer-Tax Collector, whose decision shall be final. Also, types of securities which are not listed in Government Code Section 16430 or Public Contract Code Section 22300 must be approved as eligible for investment under Public Contract Code Section 22300 by the County Treasurer-Tax Collector before bid opening. Unless such securities are prequalified before bid opening, they shall not be accepted by the County as security.

The successful bidder shall furnish a payment bond and a performance bond in the amount of \$2,500,000 each as security for the payment of all persons performing and furnishing materials in connection with this Contract. If the aggregate outstanding Job Orders issued under the contract exceeds \$2,500,000, increases in the Payment and Performance Bonds shall be as agreed with County and will be required such that the amount of the Payment and Performance Bonds are not less than one hundred percent (100%) of the outstanding aggregate Job Orders issued. Bonds shall remain in force for the duration and until completion of any outstanding Job Order. At no time may the sum of outstanding Job Orders exceed the amount of the Payment and Performance Bonds.

Bidders are hereby notified that, pursuant to state statutes or local law, the Board has obtained the general prevailing rate of per diem wages and rates for legal holidays and overtime work in the locality in which this work is to be performed for each type of worker or mechanic required to perform the contract to be awarded to the successful bidder. The prevailing rate of per diem wages is on file with the Clerk of the Board of Supervisors.

Bidders are hereby notified that pursuant to SB854 (Stat. 2014, Chapter 28):

- No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
- No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.
- This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

The Contra Costa County Board of Supervisors encourages opportunities to develop and support Minority Business Enterprises (MBEs), Women Business Enterprises (WBEs), Small Business Enterprises (SBEs), Local Business Enterprises (LBEs), and Disabled Veterans Business Enterprises (DVBEs) by providing opportunities for participation in the performance of construction contracts financed in whole or in part with County funds. MBE, WBE, SBE, LBE, and DVBE definitions and detailed information are included in Division E of the Specifications.

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

**A NON-MANDATORY Pre-Bid Conference will be conducted in-person at
255 Glacier Drive Martinez CA 94553 in Bldg 500, Conference Room G on:**

**December 8, 2022
from 2:00pm – 3:00pm**

Attendance at the above meeting is **OPTIONAL**. The pre-bid conference will cover the JOC program, the Outreach Program, resources, and any other subjects of interest to attendees.

The Board reserves the right to reject any and all bids or any portion of any bid and/or waive any irregularity in any bid received. Bids may not be withdrawn for a period of 60 days after the date set for opening thereof.

BY ORDER OF THE BOARD OF SUPERVISORS
OF CONTRA COSTA COUNTY

MONICA NINO,
Clerk of the Board of Supervisors
and County Administrator

By: _____
Deputy

Dated: _____

PUBLICATION DATES:

DIVISION B. INSTRUCTIONS TO BIDDERS

The County anticipates advertising for additional JOC contract(s) in the future.

Bidders shall carefully examine the instructions contained herein and satisfy themselves as to the conditions with which they must comply prior to bid in submitting their proposal, and to the conditions affecting the award of contract.

SECTION 1. GENERAL DESCRIPTION OF WORK:

- A. A Job Order Contract (JOC) is an indefinite quantity contract pursuant to which the Contractor may perform an ongoing series of individual Projects at different locations throughout the County. The bid documents include a Construction Task Catalog® (“CTC”) which contains various construction tasks with preset Unit Prices. The CTC was developed based on experienced labor rates and high quality material prices. All Unit Prices are based on local labor, material and equipment prices, including the current prevailing wages and are for the direct cost of construction. Not less than the prevailing rate of wages at the time the work is being performed as determined by the Department of Labor shall be paid to all trades performing work under this Contract. The price of an individual project will be determined by multiplying the preset Unit Prices and the appropriate quantities by the appropriate Adjustment Factor, which the successful contractor submitted in its bid. The County offers free training (through its consultant) to the JOC contractor on how to develop Job Order Price Proposals and using the web-based proprietary eGordian® JOC software.
- B. When a project arises, the Contractor will jointly scope the work with the County. The County will issue a Request for Proposal and Detailed Scope of Work to the Contractor. The Contractor will review the Detailed Scope of Work and develop a Job Order Proposal including a Job Order Price Proposal, drawings and sketches, a list of subcontractors and suppliers, construction schedule and other requested documentation. The Job Order Price shall equal the value of the approved Job Order Price Proposal. The value of the Job Order Price Proposal shall be calculated summing the total calculation for each Pre-priced Task (Unit Price x quantity x appropriate Adjustment Factor) plus the value of all Non Pre-priced Tasks. The County will review the Contractor’s Proposal and if found to be reasonable and acceptable, a Job Order may be issued. A Job Order will reference the Detailed Scope of Work and set forth the Job Order Completion Time, and the Job Order Price. The Job Order Price shall be a lump sum, fixed price for the completion of the Detailed Scope of Work. A separate Job Order will be issued for each Project. Extra work, credits, and deletions will be contained in a Supplemental Job Order. The Contractor will bid six Adjustment Factors to be applied to the Unit Prices. One Adjustment Factor for performing work in General Facilities during Normal Working Hours (8:00 AM to 5:00 PM), a second Adjustment Factor for performing work in General Facilities during Other Than Normal Working Hours (5:00 PM to 8:00 AM, Saturdays, Sundays and County Holidays) , a third for performing work in Detention Facilities during Normal Working Hours (8:00 AM to 5:00 PM), a fourth for performing work in Detention Facilities during Other than Normal Working Hours (5:00 PM to 8:00 AM, Saturdays, Sundays and County Holidays), a fifth for performing work in OSHPD/HCAi Facilities during Normal Working Hours (8:00 AM to 5:00 PM) and a sixth for performing work in OSHPD/HCAi Facilities during Other than Normal Working Hours (5:00 PM to 8:00 AM, Saturdays, Sundays and County Holidays). The same six Adjustment Factors shall apply to every Pre-priced Task in the Construction Task Catalog®. The work of this Contract will be set forth in the Detailed Scopes of Work referenced in the individual Job Orders. The Contractor is required to complete each Detailed Scope of Work for the Job

DIVISION B. INSTRUCTIONS TO BIDDERS

Order Price within the Job Order Completion Time. The Other than Normal Working Hours Adjustment Factor(s) must be equal to or greater than the Normal Working Hours Adjustment Factor(s). This Contract is for construction work and related services to be performed within a designated area of the County. However, if the need arises, the County reserves the right to require the Contractor to work at any location or facility under the jurisdiction of the County.

C. Minimum and Maximum Contract Values

1. The Minimum Contract Value is \$25,000. The Contractor will receive the opportunity to perform Job Orders totaling at least \$25,000 during the contract term.
2. The Maximum Contract Value is \$2,500,000. The Contractor may receive job orders up to the Maximum Contract Value, however there is no guarantee that this will happen.
3. County has the option to increase each contract to the maximum amount authorized by Public Contract Code Section 20128.5 (currently \$5,400,000) pending County Board of Supervisors Approval.
4. The term of the Contract is one year – 365 days and commences ninety (90) days after contract execution or upon the first Notice to Proceed, whichever comes first.
5. All Job Orders issued during the term of this Contract shall be valid and in effect notwithstanding that the Detailed Scope of Work may be performed, payments may be made, and the guarantee period may continue, after such period has expired. All terms and conditions of the Contract apply to each Job Order.

SECTION 2. COMPETENCE OF BIDDERS:

- A. License: No bidder may bid on work of a kind for which he is not properly licensed, and any such bid received may be disregarded. See Division A, Notice to Contractors, for license classification required for this project.
- B. Bidders shall be experienced in the type of work for which they are bidding and shall, upon request of the County, submit to the County a written list of completed projects, with the name of the owner or contract officer indicated.
- C. County may not permit a Contractor or subcontractor who is ineligible to bid or work on, or be awarded, a Public Works project pursuant to Section 1777.1 or 1777.7 of the Labor Code to bid on, be awarded, or perform work as a subcontractor on this project. Contractor is prohibited from performing work on this project with a subcontractor who is ineligible to perform work on a Public Works project pursuant to Section 1777.1 or 1777.7 of the Labor Code.

SECTION 3. SECURING DOCUMENTS:

- A. Contract Documents may be secured at the place and for the deposit or fee as specified in Division A, "Notice to Contractors."

DIVISION B. INSTRUCTIONS TO BIDDERS

SECTION 4. EXAMINATION OF CONTRACT DOCUMENTS:

A. CONTRACTOR'S RESPONSIBILITY:

Bidders shall examine carefully the Contract Documents. Bidders shall investigate and satisfy themselves as to the requirements of the Contract Documents, including the Construction Task Catalog and Technical Specifications, of the contract.

B. RESPONSIBILITY FOR UTILITIES:

As part of the responsibility stated in subdivision A. above, and without limitation thereon, the Contractor shall be responsible for any and all work, or special precautions caused or required by the existence of proximity of utilities encountered in performing the work, including without limitation thereon, repair of any or all damage and all hand or exploratory excavation required. The bidder is cautioned that such utilities may include communication cables or electrical cables which may be high voltage, and the ducts enclosing such cables, and when working or excavating in the vicinity thereof, the special precautions to be observed at the Contractor's own cost shall also include the following: All such cables and their enclosure ducts shall be exposed by careful hand excavation so as not to damage the ducts or cables, nor cause injury to persons, and suitable warning signs, barricades and safety devices shall be erected as necessary or required.

In connection with the foregoing, the bidder's attention is invited to Section 13 of Division F of these Specifications.

C. DISCREPANCIES OR ERRORS:

If omissions, discrepancies, or apparent errors are found in the Contract Documents prior to the date of bid opening, the bidder shall submit a written request for a clarification which will be given in the form of an addendum to all bidders if time permits. Otherwise, in estimating the work, the bidders shall consider that any discrepancies or conflict within or between the Contract Documents shall be governed by Section 16 of Division F of these Specifications.

SECTION 5. BIDDING DOCUMENTS

- A. Bids shall be made on the special Proposal (Bid Form) (See Division C of this Specification), with all items completely filled out; numbers shall be stated both in writing and in figures, and in case of discrepancies the lower of the two shall govern; the signatures of all persons signed shall be in longhand. The completed form should be without interlineations, alterations or erasures. Additional copies of the Proposal (Bid Form) may be obtained from those supplying these Specifications. For bid evaluation purposes only, work distributions shall be used to determine the Award Criteria Figure. General Facilities Normal Working Hours Adjustment Factor at 50%, General Facilities Other than Normal Working Hours Adjustment Factor at 10%, Detention Facilities Normal Working Hours Adjustment Factor at 15%, Detention Facilities Other than Normal Working Hours Adjustment Factor at 5%, OSHPD/HCAi Facilities Normal Working Hours Adjustment Factor at 15%, and OSHPD/HCAi Facilities Other than Normal Working Hours Adjustment Factor at 5%. All Unit Prices listed in the Construction Task Catalog[®] are priced at a net value of 1.0000. The Adjustment Factors shall be an increase or decrease to all the Unit Prices listed in the Construction Task Catalog[®]. For example, 1.1000 would be a 10% increase to the Unit Prices and 0.9500 would be a 5% decrease to the Unit Prices. Bidders who submit separate Adjustment Factors for separate Unit Prices will be considered non-responsive and their bid will be rejected.

- B. Bids shall not contain any recapitulation of the work to be done; alternative proposals will not be considered, unless called for. No oral, telegraphic or telephonic proposals or modifications will be considered.
- C. List of Proposed Subcontractors: Each Job Order Proposal shall include a listing of the name and address of each subcontractor to whom the bidder proposes to subcontract portions of the work in an amount in excess of one-half of 1 percent of the total Job Order, in accordance with Section 4104 of the Public Contract Code. This applies only to each individual Job Order and the Contractor is not required to submit a list of subcontractors at the time of bid for the JOC Contract.

See Section 6 of Division F of these Specifications for further reference to subcontractors.

- D. Noncollusion Affidavit: Bidders shall execute, have notarized, and submit with their bid, the Noncollusion Affidavit form included in Division C, Proposal (Bid Form).
- E. Bidder's Security: All bids shall have enclosed cash, a cashier's check, certified check or a bidder's bond as described below, executed as surety by a corporation authorized to issue surety bonds in the State of California, made payable to "The County of Contra Costa," in an amount equal to at least 10 percent (10%) of the Maximum Contract Value which is \$2,500,000. No bid shall be considered unless one of the forms of bidder's security is enclosed therewith. Bid security will be held until either (1) the contract has been executed and bonds have been furnished, or (2) the specified time has elapsed so that bids may be withdrawn, or (3) all bids have been rejected.

SECTION 6. SUBMISSION OF PROPOSALS:

- A. Proposals shall be submitted to the Clerk of the Board of Supervisors of Contra Costa County at the place indicated on the Bid Proposal. It is the sole responsibility of the bidder to see that his/her bid is received in proper time.
- B. All proposals shall be submitted under sealed cover, plainly identified as a proposal for the work being bid upon and addressed as directed in the Notice to Contractors and the Bid Proposal. Failure to do so may result in a premature opening of, or a failure to open such bid. Proposals which are not properly marked may be disregarded.

SECTION 7. WITHDRAWAL OF PROPOSALS:

- A. Any proposal may be withdrawn at any time prior to the time fixed in the public notice for the opening of bids, provided that a request in writing, executed by the bidder or his/her duly authorized representative, for the withdrawal of such bid is filed with the Clerk of the Board of Supervisors of Contra Costa County. An oral, telegraphic, or telephonic request to withdraw a bid proposal is not acceptable. The withdrawal of a bid shall not prejudice the right of a bidder to file a new bid. This article does not authorize the withdrawal of any proposal after the time fixed in the public notice for the opening of proposals.

SECTION 8. PUBLIC OPENING OF PROPOSALS:

- A. Proposals will be publicly opened and read at the time and place indicated in the Notice to Contractors. Bidders or their authorized agents are invited to be present.
- B. Bid results will also be available on the Internet the day after the bid opening. The Internet address is: www.cccounty.us/cpmprojects.

SECTION 9. IRREGULAR PROPOSALS:

Proposals may be rejected if they show any alteration of form, additions not called for, conditional bids, incomplete bids, erasures, or irregularities of any kind. If bid amount is changed after the amount is originally inserted, the change should be initialed.

SECTION 10. COMPETITIVE BIDDING:

- A. If more than one proposal is offered by any individual, firm, partnership, corporation, association or any combination thereof, under the same or different names, all such proposals may be rejected. A party who has quoted prices on materials or work to a bidder is not thereby disqualified from quoting prices to other bidders, or from submitting a bid directly for the materials or work.
- B. All bidders are put on notice that any collusive agreement fixing the prices to be bid so as to control or affect the awarding of this contract is in violation of the competitive bidding requirements of the State law and may render void any contract let under such circumstances.
- C. **BID PROTEST:**
- 1) Any protest of the proposed award of bid to the bidder deemed the lowest responsive and responsible bidder must be submitted in writing to the County, no later than 4:00 p.m. of the second (2nd) business day following the date of the bid opening. If a bidder protests more than one bid, the bidder shall file a separate protest as to each bid being protested, complying with this Section. Late protests will not be considered by the County and will be returned.
 - 2) The initial protest must contain a complete written statement of the basis for the protest. The protest must state the facts and refer to the specific portion of the document or the specific statute that form the basis for the protest. The protest must include the name, address, telephone number, and email address of the person representing the protesting party. The protest must be signed and submitted under penalty of perjury.
 - 3) The protestor shall also submit a non-refundable fee of \$1,000.00 for each protest via check made payable to Contra Costa County to reimburse its costs in reviewing and investigating the bid protest. Protests filed without the corresponding fee will not be considered by the County and will be returned.
 - 4) The protestor must concurrently transmit a copy of the initial protest to the bidder whose bid is being protested. Faxed or emailed copies are acceptable, with confirmation of receipt by the bidder whose bid is being protested.
 - 5) The protestor must have actually submitted a bid on the Project or have been specifically excluded from filing a bid due to an action by the County. A subcontractor of a party filing a bid on this Project may not submit a bid protest. A party may not rely on the bid protest submitted by another bidder, but must timely pursue its own protest.
 - 6) The procedure and time limits set forth in this Section are mandatory and are the bidder's sole and exclusive remedy in the event of a bid protest. The bidder's failure to fully comply with these procedures shall constitute a waiver of any right to further pursue the bid protest, including filing a claim pursuant to the California Government Code, challenging the award of contract pursuant to the California Public Contract Code, or other legal proceedings.

The County shall review the bid protest and shall issue its determination within a reasonable amount of time prior to bid award. The County Administrator's Office, or designee, has the authority to issue a final determination on all bid protests. The County shall not be required to hold an administrative hearing to consider any protest. Failure to comply with these bid protest procedures will result in the protest being rejected.

SECTION 11. AWARD OF CONTRACT:

- A. The right is reserved to reject any and all proposals.
- B. The proposal forms C-1 through C-6 are included in the Contract Specifications as inserts.
- D. The award of the contracts, if awarded, will be to the lowest four responsive and responsible bidders whose proposal complies with the requirements prescribed in the Contract Documents. ***For purposes of award, the lowest four bids will be determined using the Award Criteria Figure (ACF) listed in the Proposal (Bid Form).*** The successful bidders shall be required to comply with all requirements prescribed in the Contract Documents, including without limitation the requirements for the Outreach Program (see Division E).
- E. The County intends to award all four JOC contracts. However, the County reserves the right to award none, one, two, three or all four JOC contracts. If one JOC contract is awarded, it will be awarded to the lowest responsive and responsible bidder. If all four JOC contracts are awarded, it will be awarded to the lowest four responsive and responsible bidders.
- F. If the contract is awarded, but such award is later invalidated for any reason, all bids shall be deemed rejected and no other bidder shall be deemed eligible for contract award. Nothing in this section shall prevent the County from reawarding the contract to another bidder in cases where a successful bidder establishes a mistake, refuses to sign the contract or fails to furnish required bonds or insurance (see Public Contract Code, Sections 5100-5107).

SECTION 12. SPECIAL REQUIREMENTS:

- A. The bidder's attention is invited to the following special provisions of the contract, all of which are detailed in the General Conditions (Division F) or other documents included in these Specifications.
 - 1) Bonds
 - 2) Insurance
 - 3) Liquidated Damages
 - 4) Guarantee
 - 5) Inspection and Testing of Materials
 - 6) Facilities to be Provided at Site
 - 7) Assignment of Contract Prohibited
 - 8) Outreach Program (See Division E).
 - 9) Register with the Department of Industrial Relations (DIR). For more information and/or to register, visit <http://www.dir.ca.gov/Public-Works/PublicWorks.html>.

SECTION 13. EXECUTION OF CONTRACT:

- A. The contract (example in Division D) shall be signed by the successful bidder in duplicate counterpart and returned within five (5) days of receipt, not including Saturdays, Sundays and legal holidays, together with the Contract Bonds and Certificates of Insurance. No contract shall be binding upon the County until it has been executed by the Contractor and the County.
- B. Should the Contractor begin work in advance of receiving notice that the contract has been approved as above provided, any work performed by him will be at his own risk and as a volunteer unless said contract is so approved.

SECTION 14. FAILURE TO EXECUTE CONTRACT:

- A. Failure to execute a contract and file acceptable bonds and certificates of insurance as provided herein within ten (10) days, not including Saturdays, Sundays and legal holidays, after the successful bidder has received the contract for execution, shall be just cause for the annulment of the award and the forfeiture of the bidder's security. If the successful bidder refuses or fails to execute the contract, the County may award the contract to the second lowest responsive and responsible bidder. If the second lowest responsive and responsible bidder refuses or fails to execute the contract, the County may award the contract to the third lowest responsive and responsible bidder. On the failure or refusal of the second or third lowest responsive and responsible bidder to whom any such contract is so awarded to execute the same, such bidders' securities shall be likewise forfeited to the County. The work may then be readvertised or may be constructed by day labor as provided by State law.

SECTION 15. PLAN HOLDERS LIST:

- A. To access the plan holders list, bidder inquiries/responses, and future bid opportunities follow the directions below:
 1. Navigate to the Contra Costa County Public Works Department Online Plan Room at www.cccounty.us/cpmprojects for a list of projects out to bid.
 2. Under "Advertised Project Name", click on the project name of interest to view its project information page.
 3. Under "Project Links" of the project information page, you will find the following pertinent information:
 - a. Access to the "Notice to Contractors" which will give you a brief description of the project as well as how to obtain a set of bid documents.
 - b. Access the "Plan holders List".

DISCLAIMER

Contra Costa County Public Works Department provides the Plan holders List as a convenience to Contractors, Subcontractors and suppliers. The Public Works Department is under no legal obligation to provide this information. While we make every effort to keep this information current and correct, the Public Works Department makes no guarantee as to the accuracy or completeness of these documents.

DIVISION C. **PROPOSAL (BID FORM) FOR JOB ORDER CONTRACTS 021, 022, 023 & 024**

BIDS WILL BE RECEIVED UNTIL THE 4th day of January, 2023 at 2:00pm in the Public Works Department Office located at 255 Glacier Drive, Conference Room G, Martinez, CA 94553-4825.

(1) TO THE DIRECTOR OF PUBLIC WORKS, BRIAN M. BALBAS, PUBLIC WORKS DEPARTMENT:

The undersigned hereby proposes and agrees to furnish any and all required labor, material, transportation, and services for

JOB ORDER CONTRACTS 021, 022, 023 & 024

Authorization No.: W4011C

in strict conformity with the Specifications, and other contract documents on file at the Office of the Clerk of the Board of Supervisors, First Floor, Administration Building, 1025 Escobar Street, Martinez, California, 94553, for the following sums; namely:

SCOPE OF BIDS

The undersigned, doing business under the name of

_____, declares that the only persons or parties interested in this Proposal as Principals are those named herein; that this Proposal is made without collusion with any other person, firm or corporation; that he has carefully examined the location of the proposed Work, the annexed proposed form of Agreement, and the Contract Documents therein referred to; that he proposes, and agrees if this Proposal is accepted, that he will contract with the County of Contra Costa, in the form of the copy of the Agreement annexed hereto, and do all the Work and furnish all the materials specified in the Contract Documents for the following amount(s). The Adjustment Factor shall include all labor, materials, equipment, supervision, overhead, profit, and incidentals necessary to complete the Work in accordance with the Contract Documents. When submitting Job Order Price Proposals related to specific Job Orders, the Bidder shall utilize one or more of the Adjustment Factors applicable to the Work being performed. The Award Criteria Figure, carried out to four (4) decimal places, will be used to determine the low bidder. Use conventional rounding methodology (i.e., if the number in the 5th decimal place is 0-4, the number in the 4th decimal remains unchanged; if the number in the 5th decimal place is 5-9, the number in the 4th decimal is rounded upward).

ADJUSTMENT FACTORS

Shall include all of the work:

General Facilities Normal Working Hours: Work performed during Normal Working Hours, between the hours of 8:00 AM and 5:00 PM, Monday through Friday excluding County Holidays in General Facilities, in the quantities specified in individual Job Orders for the Unit Price sum specified in the Construction Task Catalog® multiplied by the Adjustment Factor of:

DIVISION C. **PROPOSAL (BID FORM) for JOB ORDER CONTRACTS 021, 022, 023, & 024**

General Facilities Other than Normal Working Hours*: Work performed during Other Than Normal Working Hours, where the majority of shift work takes places outside of Normal Working Hours between 5:00 PM to 8:00 AM and any time on Saturdays, Sundays and County Holidays in General Facilities, in the quantities specified in individual Job Orders for the Unit Price sum specified in the Construction Task Catalog® multiplied by the Adjustment Factor of:

Detention Facilities Normal Working Hours:** Work performed during Normal Working Hours, between the hours of 8:00 AM and 5:00 PM, Monday through Friday excluding County Holidays within Detention Facilities and/or Juvenile Justice Centers, in the quantities specified in individual Job Orders for the Unit Price sum specified in the Construction Task Catalog® multiplied by the Adjustment Factor of:

Detention Facilities Other than Normal Working Hours*: Work performed during Other Than Normal Working Hours where the majority of shift work takes place outside the hours of Normal Working Hours between 5:00 PM and 8:00 AM and any time on Saturdays, Sundays and County Holidays, in Detention Facilities and/or Juvenile Justice Centers, in the quantities specified in individual Job Orders for the Unit Price sum specified in the Construction Task Catalog® multiplied by the Adjustment Factor of:

OSHPD/HCAi Facilities Normal Working Hours:** Work performed during Normal Working Hours, between the hours of 8:00 AM and 5:00 PM, Monday through Friday excluding County Holidays in OSHPD/HCAi Facilities defined as Hospital and/or In-Patient Medical Facilities, in the quantities specified in individual Job Orders for the Unit Price sum specified in the Construction Task Catalog® multiplied by the Adjustment Factor of:

OSHPD/HCAi Facilities Other than Normal Working Hours*: Work performed during Other Than Normal Working Hours, where the majority of shift work takes place outside the hours of Normal Working Hours between 5:00 PM and 8:00 AM, and any time on Saturdays, Sundays and County Holidays in OSHPD/HCAi Facilities defined as Hospital and/or In-Patient Medical Facilities, in the quantities specified in individual Job Orders for the Unit Price sum specified in the Construction Task Catalog® multiplied by the Adjustment Factor of:

* Bids will be rejected, as non-responsive if the 'Other than Normal Working Hours' Adjustment Factors are not greater than the 'Normal Working Hours' Adjustment Factors.

** Bids will be rejected as non-responsive if the Detention Facilities and OSHPD/HCAi Facilities Adjustment Factors are not equal to or greater than the General Facilities Adjustment Factors. Detention Facilities Adjustment Factors apply when Work is performed within a secured area Detention Facilities and Juvenile Justice Centers. OSHPD/HCAi Facilities Adjustment Factors apply when Work is performed within a Hospital and/or In-Patient Medical Facility. General Facilities Adjustment Factors apply for all other locations.

Award Criteria Figure Formula

Award Criteria Figure Formula percentages are for Bid purposes only. The County is not obligated to issue Job Orders in the stated percentages. Carry out all Lines to the 4th decimal place. The Contractor shall perform the Tasks required by each individual Job Order using the following Adjustment

Factors:

Line 1.	General Facilities Normal Working Hours Adjustment Factor	1.
Line 2.	Multiply Line 1 by 50% = (0.50 x Line 1)	2.
Line 3.	General Facilities Other than Normal Working Hours Adjustment Factor	3.
Line 4.	Multiply Line 3 by 10% = (0.10 x Line 3)	4.
Line 5.	Detention Facilities Normal Working Hours Adjustment Factor	5.
Line 6.	Multiply Line 5 by 15% = (0.15 x Line 5)	6.
Line 7.	Detention Facilities Other than Normal Working Hours Adjustment Factor	7.
Line 8.	Multiply Line 7 by 5% = (0.05 x Line 7)	8.
Line 9.	OSHPD/HCAi Facilities Normal Working Hours Adjustment Factor	9.
Line 10.	Multiply Line 9 by 15% = (0.15 x Line 9)	10.
Line 11	OSHPD/HCAi Facilities Other than Normal Working Hours Adjustment Factor	11.
Line 12	Multiply Line 11 by 5% = (0.05 x Line 11)	12.
Line 13.	Add Lines 2, 4, 6, 8, 10 and 12 (This is the Award Criteria Figure)	ACF =

DIVISION C. **PROPOSAL (BID FORM) for JOB ORDER CONTRACTS 021, 022, 023 & 024**

The bidder shall set forth for each Line, in clearly legible figures, the Adjustment Factors, the weighted Adjustment Factors and an Award Criteria Figure (the Sum of the weighted Adjustment Factors) in the respective spaces provided for this purpose. Failure to submit all Adjustment Factors will result in the Bid being deemed non-responsive.

In case of a discrepancy between the Adjustment Factors and the Award Criteria Figure (summation of weighted Adjustment Factors), the Adjustment Factors will prevail. The Owner will correct and revise the total Award Criteria Figure accordingly.

- (2) It is understood that this bid is based upon a Contract Term of 365 calendar days from and after the starting date as established by the Notice to Proceed issued for the first Job Order issued under this Contract. Completion of the work for Job Orders will be defined in calendar days from and after the starting date as established by the Job Order Notice to Proceed.
- (3) It is understood, with due allowances made for unavoidable delays, that if the Contractor should fail to complete the Job Order Work within the stipulated time, then, he/she shall be liable to the Public Agency in the amount as detailed in Section 5 of Division D of the Specifications for each calendar day said work remains uncompleted beyond the time for completion, as and for liquidated damages and not as a penalty; it being agreed and expressly stipulated that it would be impractical and difficult to fix the actual amount of damage.
- (4) The undersigned is familiar with the Construction Task Catalog®, Technical Specifications, Contract Specifications, and other Contract Documents.
- (5) The undersigned has checked carefully all of the above figures and understands that the Board of Supervisors will not be responsible for any errors or omissions on the part of the undersigned in making up this bid.
- (6) The weighted multipliers above are for the purpose of calculating an Award Criteria Figure only. No assurances are made by the Owner that Work will be ordered under the Contract in a distribution consistent with the weighted percentages above. The Award Criteria Figure is only used for the purpose of determining the Bid.
- (7) When submitting Job Order Price Proposals related to specific Job Orders, the Bidder shall utilize one or more of the Adjustment Factors applicable to the Work being performed.
- (8) The undersigned hereby certifies that this bid is genuine and not sham or collusive, or made in the interest or in behalf of any person not herein named, and that the undersigned has not directly induced or solicited any other bidder to put in a sham bid, or any other person, firm or corporation to refrain from bidding, and that the undersigned has not in any manner sought by collusion to secure for himself/herself an advantage over any other bidder.

BIDDER AND SUBMITTED WITH BID

State of California)
County of _____) ss

_____, being first duly sworn, deposes and says that he or she is _____ of _____ the party making the foregoing bid that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly, or indirectly, sought by agreement, communication or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Dated: _____

Signed: _____

NOTE: THIS FORM MUST BE NOTARIZED

CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
) ss.
County of _____)

On the date written below, before me, the undersigned Notary Public, personally appeared the person(s) signing above for Contractor, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Dated: _____

[NOTARIAL SEAL]

Notary Public

CONTRACT

(Construction Agreement)
(Contra Costa County Standard Form)

1. **SPECIAL TERMS.** These special terms are incorporated below by reference.

(See Secs. 2,3) Parties: (Public Agency) **CONTRA COSTA COUNTY**
(Contractor)

(See Sec. 2) Effective Date: . (See Section 4 for starting date.)

(See Sec. 3) The Work:

(See Sec. 4) Completion Time: Within calendar days from starting date.

(See Sec. 5) Liquidated Damages: \$ per calendar day.

(See Sec. 6) Public Agency's Agent: Brian M. Balbas, Chief Deputy Public Works Director

(See Sec. 7) Contract Price: \$

(See Sec. 8) Federal Taxpayers I.D. or Social Security No.:

2. **SIGNATURES & ACKNOWLEDGEMENT.**

Public Agency, By: _____ Date: _____
Brian M. Balbas, Chief Deputy Public Works Director

Recommended By: _____ Date: _____
Jeffrey K. Acuff, Capital Projects Division Manager

Contractor, hereby also certifying awareness of and compliance with Labor Code Sections 1861 and 3700 concerning Workers' Compensation Law,

By: _____
(Designate official capacity in the business)

(CORPORATE SEAL)

By: _____
(Designate official capacity in the business)

Note to Contractor: For corporations, the contract must be signed by two officers. The first signature must be that of the chairman of the board, president or vice-president; the second signature must be that of the secretary, assistant secretary, chief financial officer or assistant treasurer. (Civ. Code, Sec. 1190 and Corps. Code, Sec. 313.) The acknowledgment below must be signed by a Notary Public.

CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of _____ } ss.

On the date written below, before me, the undersigned Notary Public, personally appeared the person(s) signing above for Contractor, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Dated: _____
[NOTARIAL SEAL]

Notary Public

3. **WORK CONTRACT, CHANGES.** (a) By their signatures in Section 2, effective on the above date, these parties promise and agree as set forth in this contract, incorporating by these references the material ("special terms") in Section 1.

(b) The Work of this Contract consists of all Job Orders issued by the Public Agency to the Contractor, as further described in the Detailed Scope of Work for each individual Job Order.

(c) Contractor shall in a workmanlike manner, fully and faithfully perform and complete the work; and will furnish all materials, labor, services and transportation necessary, convenient and proper in order fairly to perform the requirements of this contract, all strictly in accordance with the Public Agency's Contract Documents, including the Construction Task Catalog and Technical Specifications.

(c) The work can be changed only with Public Agency's prior written order specifying such change and its cost agreed to by the parties; and the Public Agency shall never have to pay more than specified in Section 7 without such an order. Changes to the Contract shall be accomplished after execution of the Contract and without invalidating the Contract, by Change Order.

4. **TIME: NOTICE TO PROCEED.** The term of this contract is one year – 365 days and commences ninety (90) days after contract execution or upon the first Notice to Proceed, whichever comes first.

TERM: The term of the Job Order Contract will be either for one year or when issued Job Orders totaling the Maximum Contract Value including any options have been completed, whichever occurs first. All Job Orders, to be valid, must be issued but not necessarily completed within one calendar year of the commencement date of the Contract. Supplemental Job Orders used to reconcile existing Job Orders may be issued after the one calendar year term.

JOB ORDER NOTICE TO PROCEED. Contractor shall start the work as directed in the Notice to Proceed issued to Contractor for each individual Job Order and shall complete it within the time specified in the Notice to Proceed or the Detailed Scope of Work for the Job Order.

5. **LIQUIDATED DAMAGES.** If the Contractor fails to complete this contract and this work within the time fixed therefor, allowance being made for contingencies as provided herein, he becomes liable to the Public Agency for all its loss and damage therefrom; and because, from the nature of the case, it is and will be impracticable and extremely difficult to ascertain and fix the Public Agency's actual damage from any delay in performance hereof, it is agreed that Contractor will pay as liquidated damages to the Public Agency the reasonable sum specified in Section 1, the result of the parties' reasonable endeavor to estimate fair average compensation therefor, for each calendar day's delay in finishing said work; and if the same be not paid, Public Agency may, in addition to its other remedies, deduct the same from any money due or to become due Contractor under this contract. If the Public Agency for any cause authorizes or contributes to a delay, suspension of work or extension of time, its duration shall be added to the time allowed for completion, but it shall not be deemed a waiver nor be used to defeat any right of the Agency to damages for non-completion or delay hereunder. Pursuant to Government Code Section 4215, the Contractor shall not be assessed liquidated damages for delay in completion of the work, when such delay was caused by the failure of the Public Agency or the owner of a utility to provide for removal or relocation of existing utility facilities.

SCHEDULE FOR LIQUIDATED DAMAGES (if liquidated damages are applicable on a Job Order)

Job Order Amount	Per Calendar Day
\$1.00 to \$25,000.00	\$300.00
\$25,001.00 to \$100,000.00	\$410.00
\$100,001.00 to \$250,000.00	\$520.00
\$250,001.00 to \$500,000.00	\$665.00
\$500,001.00 to \$1,000,000.00	\$950.00

6. **INTEGRATED DOCUMENTS.** The plans, drawings and specifications or special provisions of the Public Agency's call for bids, and Contractor's accepted bid for this work are hereby incorporated into this contract; and they are intended to cooperate, so that anything exhibited in the plans or drawings and not mentioned in the specifications or special provisions, or vice versa, is to be executed as if exhibited, mentioned and set forth in both, to the true intent and meaning thereof when taken all together; and differences of opinion concerning these shall be finally determined by Public Agency's Agent specified in Section 1.

7. **PAYMENT.** (a) For his strict and literal fulfillment of these promises and conditions, and as full compensation for all this work, the Public Agency shall pay the Contractor the sum specified in Section 1, except that in unit price contracts the payment shall be for finished quantities at unit bid prices.

(b) On or about the first of each calendar month, the Contractor shall be paid for all work done through the 15th of the preceding calendar month, as determined by Public Agency or its Agent, minus 5% thereof pursuant to Public Contract Code Section 9203, but not until defective work and materials have been removed, replaced, and made good.

8. **PAYMENTS WITHHELD.** (a) The Public Agency or its Agent may withhold any payment, or because of later discovered evidence nullify all or any certificate for payment, to such extent and period of time only as may be necessary to protect the Public Agency from loss because of:

- (1) Defective work not remedied, or uncompleted work, or
- (2) Claims filed or reasonable evidence indicating probable filing, or
- (3) Failure to properly pay subcontractors or for material or labor, or
- (4) Reasonable doubt that the work can be completed for the balance then unpaid, or
- (5) Damage to another contractor, or
- (6) Damage to the Public Agency, other than damage due to delays.

(b) The Public Agency shall use reasonable diligence to discover and report to the Contractor, as the work progresses, the materials and labor which are not satisfactory to it, so as to avoid unnecessary trouble or cost to the Contractor in making good any defective work or parts.

(c) 35 calendar days after the Public Agency files its notice of completion of the entire work, it shall issue a certificate to the Contractor and pay the balance of the contract price after deducting all amounts withheld under this contract, provided the Contractor shows that all claims for labor and materials have been paid, no claims have been presented to the Public Agency based on acts or omissions of the Contractor, and no liens or withhold

notices have been filed against the work or site, and provided there are not reasonable indications of defective or missing work or of late-recorded notices of liens or claims against Contractor.

9. **INSURANCE.** (Labor Code Sections 1860-61) On signing this contract, Contractor must give Public Agency (1) a certificate of consent to self-insure issued by the Director of Industrial Relations, or (2) a certificate of Workers' Compensation insurance issued by an admitted insurer, or (3) an exact copy or duplicate thereof certified by the Director or the insurer. Contractor is aware of and complies with Labor Code Section 3700 and the Workers' Compensation Law.

10. **BONDS.** On signing this contract Contractor shall deliver to Public Agency for approval good and sufficient bonds with sureties, in amount(s) specified in the specifications or special provisions, guaranteeing his faithful performance of this contract and his payment for all labor and materials hereunder.

11. **FAILURE TO PERFORM.** If the Contractor at any time refuses or neglects, without fault of the Public Agency or its agent(s), to supply sufficient materials or workers to complete this agreement and work as provided herein, for a period of 10 days or more after written notice thereof by the Public Agency, the Public Agency may furnish same and deduct the reasonable expenses thereof from the contract price.

12. **LAWS APPLY.** General. Both parties recognize the applicability of various federal, state, and local laws and regulations, especially Chapter 1 of Part 7 of Division 2 of the Labor Code (beginning with Section 1720, and including Sections 1735, 1777.5, and 1777.6 forbidding discrimination). The parties specifically stipulate that the relevant penalties and forfeitures provided in the Labor Code, especially in Sections 1775 and 1813 concerning prevailing wages and hours, as well as Section 1776 concerning certified payroll records, shall apply to this agreement.

13. **SUBCONTRACTORS.** Public Contract Code Sections 4100-4114 are incorporated herein.
14. **WAGE RATES.** (a) Pursuant to Labor Code Section 1773, the Director of the Department of Industrial Relations has ascertained the general prevailing rates of wages per diem, and for holiday and overtime work, in the locality in which this work is to be performed, for each craft, classification, or type of worker needed to execute this contract, and said rates are as specified in the call for bids for this work or are on file with the Public Agency, and are hereby incorporated herein.
- (b) This schedule of wages is based on a working day of 8 hours unless otherwise specified; and the daily rate is the hourly rate multiplied by the number of hours constituting the working day. When less than that number of hours are worked, the daily wage rate is proportionately reduced, but the hourly rate remains as stated.
- (c) The Contractor, and all his subcontractors, must pay at least these rates to all persons on this work, including all travel, subsistence, and fringe benefit payments provided for by applicable collective bargaining agreements. All skilled labor not listed above must be paid at least the wage scale established by collective bargaining agreement for such labor in the locality where such work is being performed. If it becomes necessary for the Contractor or any subcontractor to employ any person in a craft, classification or type of work (except executive, supervisory, administrative, clerical or other non-manual workers as such) for which no minimum wage rate is specified, the Contractor shall immediately notify the Public Agency which shall promptly determine the prevailing wage rate therefor and furnish the Contractor with the minimum rate based thereon, which shall apply from the time of the initial employment of the person affected and during the continuance of such employment.
15. **HOURS OF LABOR.** Eight hours of labor in one calendar day constitutes a legal day's work, and no worker employed at any time on this work by the Contractor or by any subcontractor shall be required or permitted to work longer thereon except as provided in Labor Code Sections 1810-1815.
16. **APPRENTICES.** Properly indentured apprentices may be employed on this work in accordance with Labor Code Sections 1777.5 and 1777.6, forbidding discrimination.
17. **PREFERENCE FOR MATERIALS.** The Public Agency desires to promote the industries and economy of Contra Costa County, and the Contractor therefore promises to use the products, workers, laborers and mechanics of this County in every case where the price, fitness and quality are equal.
18. **ASSIGNMENT.** The agreement binds the heirs, successors, assigns, and representatives of the Contractor; but he cannot assign it in whole or in part, nor any monies due or to become due under it, without the prior written consent of the Public Agency and the Contractor's surety or sureties, unless they have waived notice of assignment.
19. **NO WAIVER BY PUBLIC AGENCY.** Inspection of the work and/or materials, or approval of work and/or materials inspected, or statement by any officer, agent or employee of the Public Agency indicating the work or any part thereof complies with the requirements of this contract, or acceptance of the whole or any part of said work and/or materials, or payments therefor, or any combination of these acts, shall not relieve the Contractor of his obligation to fulfill this contract as prescribed; nor shall the Public Agency be thereby estopped from bringing any action for damages or enforcement arising from the failure to comply with any of the terms and conditions hereof.
20. **HOLD HARMLESS & INDEMNIFICATION.** (a) Contractor promises to and shall defend, indemnify, save, and hold harmless the indemnitees from the liabilities as defined in this section.
- (b) The indemnitees benefitted and protected by this promise are the Public Agency and its elective and appointive boards, commissions, officers, agents, and employees, together with any additional persons and entities, if any, listed in the Supplementary General Conditions (Division G).
- (c) The liabilities protected against are any and all claims, demands, causes of action, damages, costs, expenses, actual attorneys' fees, losses, or liabilities arising out of or in connection with the actions defined below for personal injury, sickness, disease, emotional injury, death, property damage (including loss of use), trespass, nuisance, inverse condemnation, patent infringement, or any combination of these, regardless of whether or not such liability, claim, or damage was foreseeable at any time before the Public Agency approved the improvement plans or accepted the improvements as completed, and including the defense of any suit(s) or action(s) at law or equity concerning these.
- (d) The actions causing liability are any act or omission (negligent or non-negligent) in connection with the matters covered by this contract and attributable to the Contractor, subcontractor(s), supplier(s), trucker(s), anyone for whose acts the Contractor may be liable, or any officer(s), agent(s) or employee(s) of one or more of them.
- (e) The promise and agreement in this section is not conditioned or dependent on whether or not any indemnitee has prepared, supplied, or approved any plan(s), drawing(s), specification(s), or special provision(s) in connection with this work or has insurance or other indemnification covering any of these matters.
- (f) Except as prohibited by Civil Code Section 2782, the Contractor's obligations under this section shall exist regardless of the existence or degree of fault of the Public Agency or any indemnitee.
- (g) The Contractor's obligations under this section shall extend to claims arising after the work is completed and accepted if the claims are related to alleged acts or omissions that occurred during the course of the work. Public Agency's inspection is not a waiver of full compliance with these requirements.
- (h) The Contractor and the Contractor's insurance carrier(s) shall respond within 15 days to the tender of any claim for defense and indemnity by the Public Agency, unless this time has been extended by the Public Agency.
- (i) With respect to third-party claims against the Contractor, the Contractor waives all rights of any kind to express or implied indemnity against the indemnitees.
- (j) Nothing in this section is intended to establish a standard of care owed to any third party or to extend to any third party the status of a third-party beneficiary.

21. **EXCAVATION.** Contractor shall comply with the provisions of Labor Code Section 6705, if applicable, by submitting to Public Agency a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during trench excavation.
22. **RECORD RETENTION AND AUDITING.** Except for materials and records delivered to Public Agency, Contractor shall maintain and retain, for a period of at least five years after Contractor's receipt of the final payment under this contract, all records relating to this contract or to the work, including without limitation estimates, bids, shop drawings, submittals, subcontracts, personnel and payroll records, job reports and diaries, receipts, invoices, cancelled checks and financial records. Upon request by Public Agency, at no additional charge, Contractor shall promptly make such records available to Public Agency, or to authorized representatives of the state and federal governments, at a convenient location within Contra Costa County designated by Public Agency, and without restriction or limitation on their use.
23. **VENUE.** Any litigation involving this contract or relating to the work shall be brought in Contra Costa County, and Contractor hereby waives the removal provisions of Code of Civil Procedure Section 394.
24. **ENDORSEMENTS.** Contractor shall not in its capacity as a contractor with Contra Costa County publicly endorse or oppose the use of any particular brand name or commercial product without the prior approval of the Board of Supervisors. In its County contractor capacity, Contractor shall not publicly attribute qualities or lack of qualities to a particular brand name or commercial product in the absence of a well-established and widely-accepted scientific basis for such claims or without the prior approval of the Board of Supervisors. In its County contractor capacity, Contractor shall not participate or appear in any commercially-produced advertisements designed to promote a particular brand name or commercial product, even if Contractor is not publicly endorsing a product, as long as the Contractor's presence in the advertisement can reasonably be interpreted as an endorsement of the product by or on behalf of Contra Costa County. Notwithstanding the foregoing, Contractor may express its views on products to other contractors, the Board of Supervisors, County officers, or others who may be authorized by the Board of Supervisors or by law to receive such views.
25. **USE OF PRIVATE PROPERTY.** Contractor shall not use private property for any purpose in connection with the work absent a prior, written agreement with the affected property owner(s).

PAYMENT BOND -- PUBLIC WORK
[Civ. Code, §§ 9550 - 9554]

Bond No. _____
Premium _____
Any claim under this Bond should be sent
to the following address:

KNOW ALL MEN BY THE PRESENTS:

That we, _____
As Principal, and _____
_____, a corporation organized and existing under the laws of the State of _____
and authorized to transact surety business in the State of California, as Surety, are held and firmly bound unto
CONTRA COSTA COUNTY, as Obligee, in the sum of _____ Dollars (\$) lawful money of the United States of
America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors,
administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION of the above obligation is such that, whereas the Principal has entered into a contract dated _____,
, with the Obligee to do and perform the following work, to wit:

as is more specifically set forth in the contract documents, reference to which is hereby made.

NOW, THEREFORE, if the Principal or a subcontractor fails to pay any of the persons named in Section 9100
of the Civil Code, or amounts due under the Unemployment Insurance Code with respect to work or labor
performed under the contract, or for any amounts required to be deducted, withheld and paid over to the
Employment Development Department from the wages of employees of the Principal and subcontractors
pursuant to Section 13020 of the Unemployment Insurance Code, with respect to such work and labor, the
Surety will pay for the same, in an amount not exceeding the sum specified in this bond, and also, in case suit is
brought upon this bond, a reasonable attorney's fee, to be fixed by the court.

This bond shall enure to the benefit of any of the persons named in Section 9100 of the Civil Code so as to give
a right of action to such persons or their assigns in any suit brought upon this bond.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to
which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

SIGNED AND SEALED, this _____ day of _____, 20 _____

(Principal)

(Surety)

By: _____
(Signature)

(Signature)

(SEAL AND ACKNOWLEDGEMENT OF NOTARY)

(SEAL AND ACKNOWLEDGEMENT OF NOTARY)

PERFORMANCE BOND -- PUBLIC WORK

Bond No. _____
Premium _____
Any claim under this Bond should be sent
to the following address:

KNOW ALL MEN BY THE PRESENTS:

That we, _____
As Principal, and _____,
_____, a corporation organized and existing under the laws of the State of _____
and authorized to transact surety business in the State of California, as Surety, are held and firmly bound unto
CONTRA COSTA COUNTY, as Obligee, in the sum of Dollars (\$) lawful money of the United States of
America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors,
administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION of the above obligation is such that, whereas the Principal has entered into a contract dated _____,
, with the Obligee to do and perform the following work, to wit:

as is more specifically set forth in the contract documents, reference to which is hereby made.

NOW, THEREFORE, if the Principal shall well and truly perform all the requirements of said contract
documents required to be performed on its part, at the times and in the manner specified therein, then this
obligation shall be null and void, otherwise it shall remain in full force and effect.

PROVIDED, that any alterations in the work to be done or the materials to be furnished, or changes in the time
of completion, which may be made pursuant to the terms of said contract documents, shall not in any way
release the Principal or the Surety thereunder, nor shall any extensions of time granted under the provisions of
said contract documents release either the Principal or the Surety, and notice of such alterations or extensions of
time is hereby waived by the Surety.

PROVIDED, that if any action is commenced on this bond by the Obligee, in addition to the sum specified
above, the Principal and the Surety, their heirs, executors, administrators, successors and assigns, jointly and
severally, shall be obligated to pay to the Obligee all costs, attorney's fees and other litigation expenses incurred
by the Obligee in collecting monies due under the terms of this bond.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to
which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

SIGNED AND SEALED, this _____ day of _____, 20 _____

(Principal)

(Surety)

By: _____
(Signature)

(Signature)

(SEAL AND ACKNOWLEDGEMENT OF NOTARY)

(SEAL AND ACKNOWLEDGEMENT OF NOTARY)

DIVISION E. Outreach Program/Mandatory Subcontracting Minimum/Affirmative Action and Equal Employment Opportunity for Use on County-Funded Construction Contracts of \$175,000 and Greater

SECTION 1. OUTREACH PROGRAM

A. General

This project is subject to the policies and requirements established in the County's Outreach Program for the use of Minority Business Enterprises (MBEs), Women Business Enterprises (WBEs), Other Business Enterprises (OBEs), Small Business Enterprises (SBEs), Local Business Enterprises (LBEs), and Disabled Veteran Business Enterprises (DVBES). The County is committed to ensuring full and equitable participation by minority, women, and other sub-bid or subcontracting businesses in County-funded construction projects. The Outreach Program is set forth herein. Bidders should be fully informed of this program. Bidders are encouraged to use MBE/WBE firms whenever there is a need to subcontract portions of the work. Failure to comply with the County's Outreach Program may render the bid non-responsive.

B. MBE/WBE/OBE Participation

The Outreach Program requires the bidder to make a "Good Faith Effort" to obtain sub-bid participation by MBEs, WBEs, OBEs, SBEs, LBEs, and DVBES which is anticipated by the County to produce levels of participation as stated in the proposal form.

C. Definitions

For purposes of this program, the following definitions shall apply:

1. "Minority or Women Business Enterprise (MBE or WBE)" means a business enterprise that meets both of the following criteria:
 - a. A business entity that is at least 51 percent owned by one or more minority persons or women or, in the case of any business whose stock is held, at least 51 percent of the stock is owned by one or more minority persons or women; and
 - b. A business whose management and daily business operations are controlled by one or more minority persons or women.
2. "Other Business Enterprise (OBE)" means any business which does not otherwise qualify as a Minority or Women Business Enterprise.
3. "Small Business Enterprise (SBE)" means a small business concern, as defined in Section 3 of the Small Business Act and implementing regulations (Volume 13 of the Code of Federal Regulations, Chapter 1).
4. "Local Business Enterprise (LBE)" means a business that has its main office or principal place of business within the boundaries of Contra Costa County.

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5. "Minority person" means African Americans; Hispanic Americans; Native Americans (including American Indians, Eskimos, Aleuts, and Native Hawaiians); Asian Pacific (including persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas); and Asian Indians (including persons whose origins are from India, Pakistan, and Bangladesh).
6. "Subcontract" means an agreement between the prime contractor and an individual, firm, or corporation for the performance of a particular portion(s) of the work which the prime contractor has obligated itself.
7. "Subcontractor" means an individual, firm, or corporation having a direct contract with the contractor for the performance of a part of the work which is proposed to be constructed or done under the contract or permit, including the furnishing of all labor, materials, or equipment.
8. "Vendor and/or supplier" means a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. The firm must engage in, as its principal business, and its own name, the purchase and sale of the products in question. A vendor and/or supplier of bulk items such as steel, cement, stone, and petroleum products need not keep such products in stock, if it owns or operates distribution equipment.
9. "Manufacturer" means a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the contractor.
10. "Trucker" means a firm that performs hauling or trucking work with trucks owned or leased by that firm.
11. "Broker" means a firm that charges for providing a bona fide service such as professional, technical, consultant, or managerial services and assistance in the procurement of essential personnel, facilities, equipment, insurance or bonds, materials, or supplies required for the performance of the contract. The fee or commission is to be reasonable and not excessive as compared with fees customarily allowed for similar services.

D. Certification and Participation of Minority and Women Business Enterprises

1. If recognition is to be given to MBE/WBE participation on this project, within three (3) working days after bid opening, an MBE/WBE must be: (a) certified by the involved County department or self-certified on an appropriate form satisfactory to the County; or (b) certified by any of the following agencies-State of California Department of Transportation (Caltrans), City of Oakland, Port of Oakland, Regional Transit Coordinating Council, San Francisco Human Rights Commission, Los Angeles County Metropolitan Transportation Commission, or U.S. Small Business Administration.

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Applications for certification and/or directories of MBE/WBE certified firms are available at the following locations:

- a. Contra Costa County
Affirmative Action Office, 2530 Arnold Drive, Suite 140, Martinez, CA 94553
Telephone: 925-335-1455
Fax: 925-335-1420
- b. City of Oakland
Office of City Manager, Contract Compliance & Employment Services
250 Frank H. Ogawa Plaza, Suite 3341, Oakland, CA 94612
Telephone: (510) 238-3970
Fax: (510) 238-3363
- c. Los Angeles County Metropolitan Transportation Commission
Equal Opportunity Department, 1 Gateway Plaza, Los Angeles, CA 90012
Telephone: (213) 922-2600
Fax: (213) 922-7660
- d. Port of Oakland
530 Water Street, Oakland, CA 94607
Telephone: (510) 627-1657
Fax: (510) 451-1656
- e. Regional Transit Coordinating Council
Includes the following agencies:

AC Transit (Alameda Contra Costa Transit District)
Telephone: (510) 891-7176
Fax: (510) 891-4724
Email: sandy@pacbell.net

BART (Bay Area Rapid Transit District)
Telephone: (510) 464-6110
Fax: (510) 464-7587
Email: jmackl@bart.dst.ca.us

County Connection (Central Contra Costa Transit Authority)
Telephone: (925) 676-1976
Fax: (925) 686-2630
Email : madrigal@cccta.org

Metropolitan Transportation Commission
Telephone: (510) 464-7777
Fax: (510) 464-7848
Email: bcecch@mtc.ca.us
Samtrans (San Mateo County Transit District)

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Telephone: (650) 508-7939

Fax: (650) 508-7738

San Francisco Municipal Railway/San Francisco Public Transportation

Telephone: (415) 923-6139

Fax: (415) 923-6180

Santa Clara Valley Transportation Authority

Telephone: (408) 952-4105

Fax: (408) 955-0892

Email: andy.flores@vta.org

f. San Francisco Human Rights Commission

25 Van Ness Avenue, Suite 800, San Francisco, CA 94102-6033

Telephone: (415) 252-2500

Fax: (415) 431-5764

Webpage: <http://www.sfhumanrights.org/>

(Note: Firm must be listed on their certification list, not their registry).

g. Caltrans (California Department of Transportation)

Division of Civil Rights, 1120 N Street, Room 2445, Sacramento, CA 95814

Webpage: <http://www.dot.ca.gov/hq>

h. U.S. Small Business Administration

Regional Office, 71 Stevenson Street, 20th Floor, San Francisco, CA 94105-2939

Telephone: (415) 744-6843

Webpage: <http://www.sba.gov>

2. This applies to recognition as an MBE/WBE.

- a. All listed MBE or WBE firms must be certified as defined under the preceding paragraph.
- b. Work performed by a prime contractor will be considered for credit in computing any level of anticipated MBE/WBE participation established for this project. The prime contractor will be required to make a good faith effort to obtain certified MBEs/WBEs through subcontracting.
- c. A listed MBE or WBE firm must perform a commercially useful function, i.e., must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing, and supervising the work.

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- d. Recognition for materials and/or supplies is limited to 60 percent of the amount to be paid to the vendor, unless the vendor manufactures or substantially alters the materials/supplies.
- e. MBE/WBE credit shall not be given to a Joint Venture partner listed as a subcontractor by a Joint Venture bidder.
- f. MBE/WBE credit for brokers required for performance of the contract is limited to the reasonable fee or commission charged, as not considered excessive, as compared with fees customarily allowed for similar services.

E. Good Faith Effort Documentation

The bidder must take affirmative steps prior to bid opening to ensure that a maximum effort is made to recruit sub-bidder/subcontractors. Minority and women-owned and controlled businesses must be considered along with other business enterprises whenever possible as sources of supplies, construction, and other services. The required affirmative steps for Good Faith Effort documentation are outlined below.

It is the policy of Contra Costa County to provide all MBEs, WBEs, OBEs, SBEs, LBEs, and DVBEs an equal opportunity to participate in the performance of all County contracts. Bidders must assist the County in implementing this policy by taking all reasonable steps to ensure that all qualified business enterprises, including MBEs, WBEs, OBEs, SBEs, LBEs, and DVBEs have an equal opportunity to compete for and participate in County contracts. A bidder's good faith efforts to reach out to MBEs, WBEs, OBEs, SBEs, LBEs, and DVBEs (subcontractors, suppliers, manufacturers, truckers, etc.) will be determined by the Board of Supervisors from written documentation of the level of effort put into achieving the indicators. **Failure to include supporting documentation of a good faith effort and failure to achieve a minimum of 75 out of 100 Good Faith Effort evaluation points may render the bid non-responsive and may result in its rejection.** Adequacy of bidder's good faith effort will be determined after consideration of the indicators of good faith as set forth below.

Indicator	1	2	3	4	5	6	7	8	9	10	Total
Points	0	10	13	9	10	10	5	10	26	7	100

Each indicator (2-10) is evaluated on a pass/fail basis, i.e., either full or zero points can be achieved for compliance with each item.

DIVISION E. Outreach Program/Mandatory Subcontracting Minimum/Affirmative Action and Equal Employment Opportunity for Use on County-Funded Construction Contracts of \$175,000 and Greater

1	OUTREACH PARTICIPATION AND MSM	No Points
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The bidder has made a good faith effort to obtain sub-bid participation by MBEs, WBEs, OBEs, SBEs, LBEs, and DVBEs which could be expected by the County to produce a reasonable level of participation by interested business enterprises, and to have the bidder meet the Mandatory Subcontracting Minimum for the project.

2	ATTENDED PRE-BID MEETING	10 Points
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The bidder has attended the pre-bid meeting scheduled by the County to inform all bidders of the requirements for the project for which the contract will be awarded.

Required Documentation: a) Attend pre-bid meeting and be listed on the attendance sheet; or b) Submit a letter prior to the pre-bid meeting either by fax to (925) 313-2101 or by mail to Contra Costa County Public Works Department, Capital Projects Management Division, 255 Glacier Drive, Martinez California 94553.

3	SUFFICIENT WORK IDENTIFIED FOR SUBCONTRACTORS	13 Points
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The bidder has identified, listed and selected specific work items in the project to be performed by sub-bidders/subcontractors in order to provide an opportunity for participation by MBEs, WBEs, OBEs, SBEs, LBEs, and DVBEs. Upon making this determination, the bidder subdivided the total contract work requirements into smaller portions or quantities to permit maximum active participation of MBEs, WBEs, OBEs, SBEs, LBEs, and DVBEs.

Required Documentation: Proof of this must be demonstrated in either Indicator 4 or 5.

4	ADVERTISEMENT	9 Points
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Not less than ten (10) calendar days prior to bid opening, the bidder advertised for sub-bids from interested business enterprises in one or more daily or weekly newspapers, trade association publications, minority or trade oriented publications, trade journals, or other media, specified by the County, such as the Daily Construction Service, the Daily Pacific Builder, or the Small Business Exchange.

Required Documentation: A copy of the advertisement and a proof of publication statement or other verification which confirms the date the advertisement was published.

Note: The advertisement must be specific to the project, not generic, and may not be a plan holder advertisement provided by the publication. It should include the County project name, name of bidder, areas of work available for subcontracting, and a contact person's name and telephone number, information on the availability of plans, specifications and requirements, and the bidder's policy concerning assistance to subcontractors in obtaining bonds, lines of credit, and/or insurance. Consideration will be given to the wording of the advertisement to ensure that it did not exclude or seriously limit the number of potential respondents.

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5	WRITTEN NOTICES TO SUBCONTRACTORS	10 Points
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The bidder has provided written notice of its interest in receiving sub-bids on the contract to those subcontractors, suppliers, manufacturers, and truckers, including MBEs, WBEs, OBEs, SBEs, LBEs, and DVBES having an interest in participation in the selected work items. All notices of interest shall be provided not less than ten (10) calendar days prior to the date the bids are required to be submitted.

Required Documentation: A copy of each letter sent to available MBEs, WBEs, OBEs, SBEs, LBEs, and DVBES for each item of work to be performed. If there is only one master notification, then a copy of the letter along with a listing of all recipients will suffice. Faxed copies must include the fax transmittal confirmation slip showing the date and time of transmission. Mailed letters must include copies of the metered envelopes or certified mail receipts. Letters must contain: areas of work to be subcontracted; County project name; name of the bidder; contact person's name, address, and telephone number; information on the availability of plans and specifications; and the bidder's policy concerning assistance with bonds, lines of credit, and insurance.

Note: This written notice can be used to satisfy Indicators 3, 7, and 10.

CERTIFICATION AGENCIES

(Bidders should contact the agencies listed in Paragraph D.1 above to obtain current copies of MBE/WBE directories for listings of certified MBE/WBE firms.)

6	FOLLOW-UP ON INITIAL SOLICITATION	10 Points
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The bidder has documented efforts to follow-up initial solicitations made in Indicator #5 by contacting the MBEs, WBEs, OBEs, LBEs, and SBEs to determine with certainty whether said businesses were interested in performing specific portions of the project work, to answer any questions from them, to record any telephone quotes, and to confirm/record the business' interest in bidding on the project.

Required Documentation: A copy of telephone logs. These logs must include the name of the company called, telephone number, contact person, who did the calling, time, date, and the result of the conversation. Bidder must follow-up with all subcontractors to whom they sent letters.

7	PLANS, SPECIFICATIONS AND REQUIREMENTS	5 Points
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The bidder has provided interested sub-bid enterprises with information about the plans, specifications, and requirements for the selected sub-bid/subcontracting work.

Required Documentation: Include in Indicator 4 or 5, information detailing how, where, and when the bidder will make the required information available to interested subcontractors.

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8	CONTACTED RECRUITMENT/PLACEMENT ORGANIZATIONS	10 Points
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The bidder has requested assistance from organizations that provide assistance in the recruitment and placement of MBEs, WBEs, OBEs, SBEs, LBEs, and DVBEs not less than fifteen (15) calendar days prior to the submission of bids. Any organizations which have been contacted must be listed in the required documentation.

Required Documentation: A copy of each letter sent to outreach agencies requesting assistance in recruiting MBEs, WBEs, OBEs, SBEs, LBEs, and DVBEs. Faxed copies must include the fax transmittal confirmation slip showing the date and time of transmission. Mailed letters must include copies of the metered envelopes or certified mail receipts. Letters must contain areas of work to be subcontracted, County project name, name of the bidder, and contact person's name, address, and telephone number.

9	NEGOTIATE IN GOOD FAITH	26 Points
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The bidder has negotiated in good faith with interested MBEs, WBEs, OBEs, SBEs, LBEs, and DVBEs and did not unjustifiably reject as unsatisfactory bids or proposals prepared by any enterprise, as determined by the County.

Required Documentation: a) Copies of all MBE/WBE/OBE/SBE/LBE/DVBE bids or quotes received; and b) Summary sheet organized by work area, listing the bids received, the name of the company that submitted the bid, the dollar amount of the bid and the subcontractor selected for that work area. If the bidder elects to perform a listed work area with its own forces, they must include a bid that shows their own costs for the work.

10	BOND, LINES OF CREDIT, AND INSURANCE ASSISTANCE	7 Points
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The bidder has documented efforts to advise and assist interested MBEs, WBEs, OBEs, SBEs, LBEs, and DVBEs in obtaining bonds, lines of credit, and insurance required by the County or contractor.

Required Documentation: Include in Indicator 4 or 5, information about the bidders's efforts to assist with bonds, lines of credit, and insurance.

No later than three (3) working days following bid opening, the bidders shall submit completed good faith effort documentation to the County. In its review of the good faith effort documentation, the County may request additional information to validate and/or clarify that the good faith effort submission was adequate. Such information shall be submitted promptly upon request by the County.

For MBE/WBE firms to be used on the project, the bidder shall submit, within three (3) working days after bid opening, a completed "Letter of Intent" form for each such firm (see sample form at end of Division E). Use of the form will verify the amount of work each MBE/WBE subcontractor, supplier, manufacturer, or trucker intends to perform. The form

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shall be signed by the MBE/WBE subcontractor, supplier, manufacturer, or trucker identifying the item(s) of work to be performed and the actual dollar value to be received.

F. Award of Contract

The Board reserves the right to reject any and all bids. The award of a contract will be to the lowest responsive, responsible bidder whose proposal complies with all requirements prescribed herein. This includes compliance with the required Outreach Program. A positive and adequate demonstration to the satisfaction of the Board of Supervisors that a good faith effort to include MBE/WBE/OBE/SBE/LBE subcontractors' participation was made is a condition for eligibility for award of the contract.

In the event that the Board considers awarding away from the apparent low bidder because of the bidder's failure to supply adequate good faith effort documentation, the County shall afford the bidder an opportunity to present further evidence prior to award of contract.

The Board specifically reserves the right, in its sole discretion, to waive any of the time requirements set forth in this Division E and to waive any other irregularities relating to compliance with the County's Outreach Program.

G. Subcontractor Substitution

In addition to the requirements set forth in the provisions pertaining to the listing of subcontractors the following shall apply for the purpose of this program:

1. Substitution During Construction: The contract award requires that the level of all subcontractor participation shall be maintained throughout the duration of the contract.
 - a. The Contractor shall request advance approval for all substitutions of bid-listed subcontractors.
 - b. The request shall be in writing and submitted to the County. The request shall give the reason for the substitution, the name of the subcontractor, supplier, trucker, or manufacturer, and the name of the replacement.
2. MBE/WBE Sub-bidder/Subcontractor Substitution: The County requires that whenever the Contractor seeks to substitute a bid-listed MBE/WBE subcontractor, supplier, manufacturer, or trucker, the Contractor must make a good faith effort to replace the MBE/WBE with a firm of the same certification status (i.e., MBE for MBE and WBE for WBE).
 - a. The Contractor shall call at least two (2) certified MBE or WBE sub-bid prospects from each trade for which sub-bid/subcontracting work is available and document the following for submittal:

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Name of the company called; contact person and telephone number; date and time of contact.

Response for each item of work which was solicited, including dollar amounts.

Reason for selection or rejection of sub-bid prospect.

- b. The Contractor shall submit all documentation of good faith efforts to the County for review and approval by the County Administrator's Office.

H. Sub-Agreement Falsification

Falsification or misrepresentation of a sub-agreement as to company name, contract amount, and/or actual work to be done by the sub-bidder/subcontractor will result in sanctions set forth in provisions pertaining to listing of subcontractors.

I. Final Subcontracting Report Submittal/Verification of Performance Forms

The Contractor must submit the Final Subcontracting Report to the County Affirmative Action Office within fifteen (15) calendar days after the final inspection of the contract work by the County. Failure to comply may result in the assessment of liquidated damages in the amount of five hundred dollars (\$500.00) per calendar day by the Board of Supervisors.

Upon completion of work, the Contractor shall submit a completed "Verification of Performance" form (see sample form at end of Division E) for each MBE/WBE prime contractor, subcontractor, supplier, manufacturer, or trucker used on the project or listed in the bid. The form shall be signed by the MBE/WBE identifying the item(s) of work performed and the actual dollar amount received. Final payment for work done may be withheld until all MBE/WBE Verification of Performance forms are received. The Prime Contractor must explain in writing any total dollar amounts paid to MBE/WBE subcontractors, suppliers, manufacturers, or truckers that are less than the dollar amounts shown on the respective Letter of Intent.

J. Review of Records

Upon request, the Contractor and its subcontractors and truckers shall promptly make available, for review by the County Administrator's Office, certified payroll records and copies of purchase orders, invoices, and/or contracts from suppliers and manufacturers.

K. Prompt Payment

The Contractor shall make prompt payment to its subcontractors, truckers, suppliers, and manufacturers in accordance with their contracts and legal relationships.

DIVISION E. Outreach Program/Mandatory Subcontracting Minimum/Affirmative Action and Equal Employment Opportunity for Use on County-Funded Construction Contracts of \$175,000 and Greater

SECTION 2. MANDATORY SUBCONTRACTING MINIMUM

A. General

This project is subject to the policies and requirements established by the Board of Supervisors Outreach Program-Construction. The County is committed to maximizing subcontracting opportunities in the provision of all goods and services to the County on a contractual basis. The Outreach Program is set forth herein. Bidders should be fully informed of this program. Failure to comply with the Mandatory Subcontracting Minimum requirements may render the bid non-responsive.

B. Mandatory Subcontracting Minimum Participation Level

To be eligible for award of this project, the Board of Supervisors requires the bidder to subcontract a minimum percentage of its bid, which is stated in the proposal form, to any qualified available contractor, and list all subcontractors, regardless of amount, that the bidder wishes to be credited toward achieving the required MSM. Failure to list the subcontractors and subcontracting amounts with the bid on the form provided in the proposal, sufficient to meet or exceed the required MSM, may cause the bid to be rejected by the Board of Supervisors as non-responsive.

C. Definitions

For purposes of this program, the following definitions shall apply:

1. "Subcontractor" means an individual, firm or corporation having a direct contract with the contractor for the performance of a part of work which is proposed to be constructed or done under the contract or permit, including the furnishing of all labor, materials, or equipment.
2. "Subcontract" means an agreement between the prime contractor and an individual, firm or corporation for the performance of a particular portion(s) of the work which the prime contractor has obligated itself.
3. "Vendor and/or supplier" means a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. The firm must engage in, as its principal business, and its own name, the purchase and sale of the products in question. A supplier of bulk items such as steel, cement, stone and petroleum products need not keep such products in stock, if it owns or operates distribution equipment.
4. "Manufacturer" means a firm that operates or maintains a factory or establishment that produces on the premises the materials or suppliers obtained by the contractor.

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5. "Broker" means a firm that charges for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, insurance or bonds, materials or supplies required for performance of the contract. The fee or commission is to be reasonable and not excessive as compared with fees customarily allowed for similar services.

D. MSM Participation Recognition

1. Work performed by a prime contractor will not be considered for credit toward the MSM participation level.
2. MSM credit for materials and/or supplies is limited to 60 percent of the amount to be paid to the vendor for the materials/supplies.
3. MSM credit for a vendor who substantially alters materials/supplies and/or is a manufacturer will be 100 percent.
4. MSM credit for brokers required for performance of the contract is limited to the reasonable fee or commission charged, as not considered excessive, as compared with fees customarily allowed for similar services.
5. MSM credit shall not be given to a Joint Venture partner listed as a subcontractor by a Joint Venture bidder.

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PROPOSAL

All good faith effort documentation must be submitted with the bid or within three (3) working days following the bid opening.

Failure to submit the required good faith effort documentation within three (3) working days following the bid opening may render the bid non-responsive.

The bidder is required to subcontract the following minimum percentage of its bid:

Mandatory Subcontracting Minimum (MSM) Requirement	%
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NOTE: Outreach Program information and/or assistance may be obtained through the County's Affirmative Action Office at (925) 335-1045.

SECTION 3. AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT OPPORTUNITY

The Contractor shall pay special attention to Division F General Conditions, Section 36 Equal Employment Opportunity and Labor Code Section 1735 and these special provisions.

A. Employment Goals

1. On projects of \$1,000,000 or more it shall be the goal of each contractor and subcontractor to ensure that the overall minority composition of all persons employed specifically for the purpose of completing this contract shall reflect the overall minority composition of the labor force of Contra Costa County (25.7%) and 6.9% of the labor force for women employed specifically for the purpose of completing this contract. This requirement does not apply to current employees used on this contract.
2. The contractor shall make a maximum effort to achieve this employment goal within each trade by ensuring that the percentage of total hours worked within each trade by persons who are members of minority groups and women are in proportion to the overall minority composition of the Contra Costa County labor force population.
3. The goals shall apply to the contractor and all subcontractors regardless of how they are selected.

B. Specific Affirmative Action Steps

1. No contractor or subcontractor shall be found to be in noncompliance solely on account of its failure to meet its goals. The Contractor and subcontractor shall be given the opportunity to demonstrate that they have instituted these Specific Affirmative Action Steps and have made every "good faith effort" to make these steps work toward the attainment of the above employment goals. The contractor shall inform its subcontractors of their respective obligations under the terms and requirements of these special provisions.
2. The Contractor's and subcontractors' Affirmative Action Program must include specific affirmative action steps to increase minority and women utilization. Any contractor who fails to meet the employment goals outlined in Paragraph A "Employment Goals", above, must demonstrate to the satisfaction of the Contract Compliance Officer that a "good faith effort" was made to meet these goals. This effort must be at least as extensive and specific as the following:
 - a) The Contractor shall notify the union (hiring hall) in writing that the employment goal of this project is not being met, and the Contractor shall solicit the union's assistance in meeting the specified goals.

- b) The Contractor shall make specific and continuing personal recruitment efforts, both written and oral, directed at minority, female and community organizations, schools with minority and female students, minority and female recruitment organizations, and minority and female training organizations within the greater San Francisco Bay Area.
- c) The Contractor shall notify the Contract Compliance Officer whenever the union or unions with whom the Contractor has a collective bargaining agreement have not referred to the Contractor a minority person or female in response to a request sent by the Contractor to the union or whenever the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet the specified employment goals.
- d) The Contractor shall actively participate as an individual or through an association in joint apprenticeship programs, and the Contractor shall, where reasonable, develop on-the-job training opportunities and programs which expressly include minorities and females.
- e) The Contractor shall solicit and sponsor members of minority groups and females for pre-apprenticeship training.
- f) The Contractor shall demonstrate an effort to cooperate with the unions with which the Contractor has agreements in the development of programs to assure qualified members or minority groups and females of equal opportunity in employment in the construction trades.
- g) The Contractor shall maintain a file of the names, addresses and telephone numbers of minority and female workers referred to said Contractor, what actions were taken with respect to each referred worker, and if the worker was not employed, the reasons why. For each such worker not employed by the Contractor, the Contractor's file shall document the reasons.
- h) The Contractor shall establish and maintain a current list of minority and female recruitment sources, and shall notify community organizations that the Contractor has employment opportunities available, and shall maintain the records of organizations' responses. The Contractor shall make a specific effort to encourage its current employees to recruit any qualified minority and female workers.
- i) The Contractor shall disseminate an Equal Employment Opportunity (EEO) policy within the Contractor's own organization by including it in any policy manual and collective bargaining agreement; by publicizing it in company newspapers and annual reports; by conducting staff and employee representative meetings to explain and discuss policy; by posting of the policy; and by specific review of the policy with minority and female employees.

- j) The Contractor shall disseminate an EEO policy externally by providing notice of the policy to the unions and training programs and requesting their cooperation in assisting the Contractor in meeting EEO obligations; by informing and discussing it with all recruitment sources; by advertising in the news media, specifically including minority and female news media; by notifying and discussing it with all subcontractors and suppliers.
- k) The Contractor shall ensure that all facilities and company activities are nonsegregated. If necessary, changing facilities shall be provided to assure privacy between the sexes.
- l) The Contractor shall conduct, at least annually, an inventory and evaluation of all minority and female personnel for promotional opportunities and encourage such employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- m) The Contractor shall review, at least annually, the company's EEO policy.

Upon request by the Contract Compliance Officer, the Contractor shall provide copies of documentation that a "good faith effort" was made.

C. Reporting Requirements

The provisions in Division F General Conditions, Section 36 Equal Employment Opportunity and Labor Code Section 1735 are amended as follows:

Each employee shall be identified as to minority or non-minority status and as to gender status on a form acceptable to the Contract Compliance Officer. Forms shall be submitted weekly to the Contract Compliance Officer. When payroll records are required, this information may be included on certified payroll records using California Department of Industrial Relations Public Works Payroll Reporting Form A-1-131.

D. Enforcement

The Contract Compliance Office will review Contractor's and subcontractor's "project" employment practices during the performance of the work.

1. **Determination of Noncompliance:** If the Contract Compliance Officer determines that there is an apparent violation of any substantial requirements of these "Affirmative Action and Equal Employment Opportunity" special provisions, Division F General Conditions, Section 36 Equal Employment Opportunity or Labor Code Section 1735 by the Contractor or one of its subcontractors, the Contract Compliance Officer will hold a meeting with the Contractor, and its subcontractor (if applicable), for the purpose of determining whether the Contractor is indeed out of compliance. If after the meeting the Contract Compliance Officer finds the Contractor out of compliance, the Contractor will be notified of its appeal rights to the County Administrator. In the event that the Contractor disagrees with the County Administrator's determination, the Contractor may appeal, in writing, to the Board of Supervisors. If the Board of Supervisors concurs that there has been a violation, the Contract Compliance Officer will notify the Contractor in writing of the sanctions to be imposed.

In addition, the Contra Costa County Board of Supervisors will deem a finding of willful violation of the California Fair Employment Act by the Fair Employment Practices Commission to be a violation by the Contractor of the nondiscrimination requirements of this project, and such violation shall be subject to the sanctions provided herein. The same shall apply to violations of the Equal Employment Opportunity Commission regulation and other state and federal compliance agencies. Any sanctions imposed by the County for such violations shall be in addition to any sanctions or penalties imposed by the regulatory agencies or commissions.

2. **Sanctions:** A finding at the public hearing that there has been a violation of the Affirmative Action and Equal Employment Opportunity requirements of this project shall be cause for the Board of Supervisors to impose any or all of the following sanctions:
 - a) Withhold an additional (10%) of all further contract progress payments until the Contractor provides evidence satisfactory to the Board of Supervisors that the condition of noncompliance has been corrected.
 - b) Suspend the contract until such time as the Contractor provides evidence satisfactory to the Board of Supervisors that the condition of noncompliance has been corrected. All expenses, including liquidated damages shall be paid by the Contractor for any resultant delays.
 - c) Cancel the contract and collect appropriate damages from the Contractor.
 - d) Declaration that the Contractor is non-responsible and is ineligible to make bids on future County contracts until the Contractor can demonstrate to the satisfaction of the Board of Supervisors that the violation has been corrected.

Contra Costa County
OUTREACH PROGRAM
Affirmative Action Office
651 Pine Street, Martinez, CA 94553
(925) 335-1045 Fax (925) 335-1799

LETTER OF INTENT TO PERFORM AS A SUBCONTRACTOR / SUPPLIER / MANUFACTURER / TRUCKER

Name of Prime Contractor

Name of Project

Project Number

The undersigned is a (check one):

Sole proprietorship Corporation Limited Liability
 Partnership Joint Venture

Check the following which may apply.

MBE	WBE	SBE	LBE	DVBE
<input type="checkbox"/> Subcontractor	<input type="checkbox"/> Subcontractor	<input type="checkbox"/> Subcontractor	<input type="checkbox"/> Subcontractor	<input type="checkbox"/> Subcontractor
<input type="checkbox"/> Supplier	<input type="checkbox"/> Supplier	<input type="checkbox"/> Supplier	<input type="checkbox"/> Supplier	<input type="checkbox"/> Supplier
<input type="checkbox"/> Manufacturer	<input type="checkbox"/> Manufacturer	<input type="checkbox"/> Manufacturer	<input type="checkbox"/> Manufacturer	<input type="checkbox"/> Manufacturer
<input type="checkbox"/> Trucker	<input type="checkbox"/> Trucker	<input type="checkbox"/> Trucker	<input type="checkbox"/> Trucker	<input type="checkbox"/> Trucker
<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____
Describe	Describe	Describe	Describe	Describe

None of the Above Apply

The undersigned is prepared to perform the following described work in connection with the above project (specify in detail the particular work items or parts thereof to be performed):

Total Amount Bid to Prime Contractor: \$ _____

Signature	Position Title	Date
-----------	----------------	------

Name of Person Completing this Form

Company Name	Phone Number
	Fax Number



Contra Costa County

Attention Special Notice

Date: January 2004
To: Prime Contractors
From: Affirmative Action Officer
Subject: New Business Enterprise Category

On October 14, 2003, the Board of Supervisors approved the addition of the Disabled Veterans Business Enterprise (DVBE) category to the County's Outreach Program. The definition of a DVBE is:

A Disabled Veteran Business Enterprise (DVBE) is a business entity at least 51% owned by one or more disabled veterans and whose daily business operations must be managed and controlled by one or more disabled veterans(s); the disabled veteran(s) who manages and controls the business is not required to be the disabled veteran business owner(s); and the home office must be located in the U.S. (the home office cannot be a branch or subsidiary of a foreign corporation, foreign firm, or other foreign based-business). The disabled Veteran must be a California resident, have a service-connected disability of at least 10% or more and be an honorably discharged veteran of the U.S. Military, Naval or Air Services.

Whenever you see the listing of Minority Business Enterprises (MBEs), Women Business Enterprises (WBEs), Small Business Enterprises (SBEs), and Local Business Enterprises (LBEs), please add Disabled Veteran Business Enterprises (DVBEs) to the list of business enterprises. For example: MBE, WBE, SBE, LBE, and DVBE.

Contact the following agency for a listing of DVBEs:

State of California
Department of General Services
Procurement Division
Small Business and DVBE Certification
707 Third Street, 1st Floor, Room 400
P. O. Box 989052
West Sacramento, CA 95798-9052
(800) 559-5529
<http://www.pd.dgs.ca.gov/smbus/certinq.htm>

If you have any questions contact:

Affirmative Action Office
County Administration Building
651 Pine Street
Martinez, California 94553-1229
(925) 335-1455
Fax: (925) 335-1420

DIVISION F. GENERAL CONDITIONS

SECTION 1. Definitions:

Whenever the following terms, pronouns in place of them, or initials of organizations appear in the Contract Documents, they shall have the following meaning:

Addendum - A document issued by the County during the bidding period which modifies, supersedes, or supplements the original Contract Documents.

Adjustment Factor - The Contractor's competitively bid price adjustment to the unit costs as listed in the Construction Task Catalog. Contractors must bid two sets of Adjustments Factors, one set for projects \$25,000 or less and one set for projects over \$25,000. Each set will include an Adjustment Factor for work accomplished during normal working hours, and one for work to be performed during other than normal working hours.

Agreement - The written document of agreement, executed by the County and the Contractor.

Bidder - Any individual, partnership, corporation, association, joint venture, or any combination thereof, submitting a bid for the Work, acting directly or through a duly authorized representative.

Board of Supervisors - Shall mean the duly elected or appointed officials who constitute such a Board, who will act for the County in all matters pertaining to the Contract.

Project Inspector, Construction Supervisor, Inspector, or Clerk of the Works - Shall mean the authorized agent of the County at the site of the Work.

Construction Task Catalog or CTC - A comprehensive listing of specific repair or refurbishment tasks, together with a specific unit of measurement and a unit price for each listed task.

Contract - The Contract is comprised of the Contract Documents.

Contract Documents - The Contract Documents include the Construction Task Catalog, Specifications, Job Orders, Supplemental Job Orders, Agreement, the Contractor's bid, contract bonds, addenda, change orders, and supplementary agreements.

Contract Specifications - A body of documents, consisting of Divisions A-G, containing instructions and requirements for bidding and performance of the Work, as well as other Contract requirements.

Contractor - The individual, partnership, corporation, association, joint venture, or any combination thereof, who has entered into a Contract with the County.

County - Shall mean the County of Contra Costa, a political subdivision of the State of California and party of the first part, or its duly authorized agent acting within the scope of the agent's authority.

g:\capital projects\cpmshare\jobdocs\1-all job related docs by year\joc 2022 (board etc)\div f general conditions.doc

DIVISION F-1

Detailed Scope of Work - Shall be determined by individual Job Orders issued by the County to the Contractor. The Detailed Scope of Work is the complete description of services or work to be provided by the Contractor under an individual Job Order. The Detailed Scope of Work will include documentation for a given Project. Documentation may include a narrative description of the Work, specifications, partial design documents, or full design documents, depending on the complexity of the specific Project.

DIVISION F. GENERAL CONDITIONS (Continued)

General Notes - The written instructions, provisions, conditions, or other requirements appearing on the drawings, and so identified thereon, which pertain to the performance of the Work.

Job Order - A document that describes the Work to be accomplished under this Contract. The County may issue any number of Job Orders under this Contract. The County shall have the sole discretion to determine the number of Job Orders issued, but the number is limited by the amount of time allowed under this Contract, the Maximum Contract Amount, and the Minimum Contract Amount. The County will be responsible for the development of each Job Order as well as the supervision and acceptance of the Work covered by the Job Order. Each Job Order will include a Detailed Scope of Work, a lump sum, firm fixed price to be paid, a time duration for the completion of the Work, and any special conditions that might apply to that specific Job Order, such as liquidated damages.

Job Order Contract (JOC) - A competitively bid, indefinite quantity, unit price contract for accomplishing repair, refurbishing, remodeling, and related services. Work is accomplished through the issuance of individual Job Orders against the Contract. Each Job Order issued will be a firm, fixed-price order for accomplishing a specific Detailed Scope of Work.

Job Order Proposal or Job Order Proposal Package - The Contractor's offer to do work. It refers to the documents prepared by the Contractor quoting a firm, fixed price to achieve a specific Detailed Scope of Work, as requested by the County. The Proposal will contain shop drawings and sketches, permits and submittals as necessary, a detailed cost proposal comprised of line items from the Construction Task Catalog, supporting documentation for any Non-Prepriced Tasks, a construction schedule, a list of subcontractors, and other documentation as may be required by the County prior to the issuance of an individual Job Order.

Job Order Sum - The sum stated in the Job Order including authorized adjustments, which is the total amount payable by the County to the Contractor for the performance of the Work under the Job Order.

Job Order Time - The number of successive days as stated in Job Order to complete the Work so that it is ready for final acceptance as evidenced by the County's issuance of a notice of completion.

Job Order Work - The portion of the Work covered by an individual Job Order.

Joint Scope Meeting - Meeting at the Project site attended by the County and the Contractor to jointly scope out the requirements of the Project. Discussions and decisions at the meeting may become part of the Detailed Scope of Work.

Maximum Contract Amount - The maximum total dollar value of work that the County may order during the term of the Contract.

Minimum Contract Amount - The minimum total dollar value of work that the County may order during the term of the Contract.

DIVISION F-2

Non-Prepriced Tasks - Those units of work that are not included in the Construction Task Catalog but that are within the general scope and intent of this Contract and may be negotiated into this Contract as needs arise. Such work requirements shall be incorporated into and made part of this Contract for the Job Order to which they pertain. Non-Prepriced Tasks shall be separately identified and submitted to the County in the Job Order Proposal.

DIVISION F. GENERAL CONDITIONS (Continued)

Normal Work Hours - Hours where the majority of shift work takes place - i.e., between the hours of 8:00 AM and 5:00 PM, Monday through Friday.

Notice to Proceed (NTP) - The written notice issued by the County to Contractor authorizing Contractor to proceed with the Work for the individual Job Order and establishing the date of commencement of the Job Order Time.

Other than Normal Working Hours - Hours where the majority of shift work takes place outside the hours of the Normal Working Hours.

Outreach Program: The County Outreach Program, which applies to Job Orders over \$175,000.

Plans - The official drawings including plans, elevations, sections, detail drawings, diagrams, general notes, information and schedules thereon, or exact reproductions thereof, adopted and approved by the County showing the location, character, dimension, and details of the Work.

Project: The actual construction job that is part of any individual Job Order.

Request for Proposal (RFP) - Refers to an official request made by the County for the Contractor to provide a Job Order Proposal for Work.

Specifications - The instructions, provisions, conditions and detailed requirements pertaining to the methods and manner of performing the Work, or to the qualities and quantities of work to be furnished and installed under this Contract. The Specifications consist of the Contract Specifications, General Requirements, General Conditions, and the Technical Specifications.

Subcontractor - An individual, partnership, corporation, association, joint venture, supplier, manufacturer, and trucker, or any combination thereof, who contracts with the Contractor to perform work or labor or render service in or about the work. The term subcontractors shall not include those who supply materials only.

Superintendent - The representative of the Contractor who shall be present at the work site at all times during performance of the Work. Such Superintendent shall at all times be fully authorized to receive and act upon instructions from the County or its authorized agents and to execute and direct the Work on behalf of the Contractor.

Supplemental Instruction - An instruction given during the course of the Work (See Section 17-B).

Supplemental Job Order (SJO) - A written agreement entered into after the issuance of the Job Order that alters or amends the Job Order. Changes in the Work requested are accomplished by the issuance of a Supplemental Job Order. Changes such as extensions of time, assessment of liquidated damages, adjustment for net credits, and minor additive changes may be accomplished by issuance of a Supplemental Job Order to the original Job Order.

DIVISION F-3

Technical Specifications - A body of documents, consisting of Volumes 1-3, containing instructions and requirements that complement the Detailed Scope of Work for individual Job Orders and describe the manner of performing the Work or the quantities, qualities, and types of materials to be furnished.

DIVISION F. GENERAL CONDITIONS (Continued)

Unit Price - The price published in the Construction Task Catalog for a specific repair, refurbishing, remodeling, or other task. The unit prices are fixed for the duration of the Contract. Each unit price includes the labor, equipment, material, and all other costs to accomplish the specific task.

Work - The performance by the Contractor of all his/her responsibilities and obligations set forth in the Contract Documents for completion of individual Job Orders. Work shall include, but not be limited to, the furnishing and installing of all labor, materials, articles, supplies, and equipment as specified, designated, or required by the Contract.

SECTION 2. Governing Laws and Regulations:

- A. The Contractor shall keep informed of and observe, and comply with and cause all of his/her agents and employees to observe and comply with all prevailing Federal and State laws, local ordinances, and rules and regulations made pursuant to said laws that in any way apply to or affect the conduct of the Work of this Contract.
- B. All work and materials shall be in full accordance with the latest applicable rules and regulations of the California Building Code, the State Fire Marshal, the Safety Orders of the Division of Industrial Safety, the California Electrical Code, the California Plumbing Code and other applicable State laws or regulations. Nothing in these Plans or Specifications is to be construed to permit work not conforming to these Codes. The Contractor shall keep copies of Codes on job at all times during construction period. Work shall meet the requirements of Contra Costa County Ordinance Code, Title 7.
- C. Excerpts from Section 6422 of the Labor Code of the State of California are included below. The Contractor shall comply fully with this section of the Labor Code as applicable.

"No contract for public works involving an estimated expenditure in excess of \$25,000.00 for the excavation of any trench or trenches five feet or more in depth, shall be awarded unless it contains a clause requiring submission by the Contractor and acceptance by the awarding body or by a registered civil or structural engineer, employed by the awarding body to whom authority to accept has been delegated, in advance of excavation, of a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trench or trenches. If such plan varies from the shoring system standards established by the Construction Safety Orders, the plan shall be prepared by a registered civil or structural engineer.

Nothing in this section shall be deemed to allow the use of a shoring, sloping, or protective system less effective than that required by the Construction Safety Orders of the Division of Industrial Safety.

Nothing in this section shall be construed to impose tort liability on the awarding body or any of his/her employees.

The terms 'public works' and 'awarding body', as used in this section shall have the same meaning as in Labor Code Section 1720 and 1722 respectively."

DIVISION F-4

SECTION 3. Patents and Royalties:

DIVISION F. GENERAL CONDITIONS (Continued)

- A. The Contractor shall provide and pay for all licenses and royalties necessary for the legal use and operation of any of the equipment or specialties used in the Work. Certificates showing the payment of any such licenses or royalties, and permits for the use of any patented or copyrighted devices shall be secured and paid for by the Contractor and delivered to the County on completion of the Work, if required.

SECTION 4. Contractor's Responsibility for Work and Public Utilities:

- A. The Work: Until the formal acceptance of the Work by the County, the Contractor shall have the charge and care thereof and shall bear the risk of injury or damage to any part of the Work by the action of the elements or from any other cause except as provided in Section 24.

The Contractor, at Contractor's cost, shall rebuild, repair, restore, and make good all such damages to any portion of the Work occasioned by any of such causes before its acceptance.

B. Public Utilities:

1. The Contractor shall send proper notices, make all necessary arrangements, and perform all other services required in the care and maintenance of all public utilities. The Contractor shall assume all responsibility concerning same for which the County may be liable.
2. 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, fill in all openings in masonry, grouting the same watertight, and leave in a finished condition.
3. All connections to public utilities shall be made and maintained in such manner as not to interfere with the continuing use of same by the County during the entire progress of the Work.

SECTION 5. Bonds and Insurance:

- A. The Contractor to whom the Work is awarded shall within the time specified in Division B, Instructions to Bidders, enter into a Contract with the owner on the Contra Costa County Standard Form for the Work in accordance with the Contract Documents, and shall furnish and file at the same time payment and performance bonds as set forth in the advertisement for bids, on forms set forth in Division D of these Specifications.

B. Workers' Compensation Insurance:

The Contractor shall take out and maintain during the life of this Contract, adequate Workers' Compensation Insurance for all his/her employees employed at the site of the Project, and in case any work is sublet, the Contract shall require the subcontractor similarly to provide Workers' Compensation Insurance for the latter's employees, unless such employees are covered by the protection afforded by the Contractor.

In case any class of employee engaged in hazardous work under the Contract at the site of the Project is not protected under the Workers' Compensation statute, or in case there is no applicable Workers' Compensation statute, the Contractor shall provide, and shall cause each subcontractor to provide, adequate insurance for the protection of his/her employees not otherwise protected.

DIVISION F-5

C. Public Liability and Property Damage Insurance:

DIVISION F. GENERAL CONDITIONS (Continued)

The Contractor, at no cost to Public Agency, shall obtain and maintain during the term hereof, Comprehensive Liability Insurance, including Broad Form Property Damage and Blanket Contractual Liability, with a minimum combined single-limit coverage of \$1,000,000.00, and coverage for owned and non-owned automobiles, with a minimum combined single-limit coverage of \$500,000.00 for all damages due to bodily injury, sickness or disease, or death to any person, and damage to property, including the loss of use thereof, arising out of each accident or occurrence. Contractor shall furnish evidence of such coverage, naming as additional insured Public Agency, and its elective and appointive boards, commissions, officers, agents, and employees together with any additional persons and entities, if any, listed in the Supplementary General Conditions (Division G), and requiring 30 days' written notice of policy lapse or cancellation, non-renewal, or material change in coverage.

D. Fire Insurance:

The Public Agency will be responsible for Fire Insurance.

E. Certificates of Insurance:

Certificates of such Workers' Compensation, Public Liability, and Property Damage Insurance, shall be filed with the County and shall be subject to County approval for adequacy of protection. All certificates shall indicate that Contra Costa County has been named as an additional insured. These certificates shall contain a provision that coverage afforded under the policies will not be cancelled until at least thirty days prior written notice has been given to Contra Costa County.

F. Performance Bond:

One bond shall be in the amount of one hundred percent (100%) of the Maximum Contract Amount, and shall insure the Owner during the life of the Contract and for the term of one year from the date of acceptance of the Work against faulty or improper materials or workmanship that may be discovered during that time. Said bond shall be issued on the form set forth in Division D of these Specifications.

G. Payment Bond:

One bond shall be in the amount of one hundred percent (100%) of the Maximum Contract Amount and shall be in accordance with the laws of the State of California to secure the payment of all claims for labor and materials used or consumed in the performance of this Contract and of all amounts under the Unemployment Insurance Act. Said bond shall be issued on the form set forth in Division D of these Specifications.

SECTION 6. Subcontracting:

- A. The Contractor shall be responsible for all work performed under this Contract, and no subcontractor will be recognized as such. All persons engaged in the Work will be considered as employees of the Contractor.

DIVISION F-6

DIVISION F. GENERAL CONDITIONS (Continued)

- B. The Contractor shall give personal attention to the fulfillment of this Contract and shall keep the Work under his/her control. When any subcontractor fails to prosecute a portion of the Work in a manner satisfactory to the Architect or Engineer, the Contractor shall remove such subcontractor immediately upon written request of the Architect or Engineer and he/she shall not again be employed on the Work.
- C. Although the specification sections of this Contract may be arranged according to various trades, or general grouping of work, the Contractor is not obligated to sublet the Work in such manner. The County will not entertain requests to arbitrate disputes among subcontractors or between the Contractor and one or more subcontractors concerning responsibility for performing any part of the Work.
- D. Subletting or subcontracting any portion of the Work as to which no subcontractor was designated in the original Job Order shall be permitted only in case of public emergency or necessity, and then only after a finding reduced to writing as public record of the awarding authority setting forth the facts constituting such emergency or necessity.
- E. Substitution of Subcontractors: Contractor shall not substitute any person or subcontractor in place of a subcontractor listed in his/her Job Order Proposal without the written approval of the County. Substitution of subcontractors must be in accordance with the provisions of the "Subletting and Subcontracting Fair Practices Act" beginning with Section 4100 of the Public Contract Code. Violations of this Act by the Contractor may subject him/her to penalties which may include cancellation of Contract, assessment of ten (10%) percent of the subcontractor's bid, and disciplinary action by the Contractors' State License Board.

SECTION 7. Time of Work and Damages:

- A. The County will designate the starting day of an individual Job Order on which the Contractor shall immediately begin and thereafter diligently prosecute the Work to completion. The Contractor obligates himself to complete the Work on or before the date, or within the number of calendar days, set forth by the Job Order Time for completion, subject only to such adjustment of time as may be set forth in this article or pursuant to Section 22.
- B. If the Work is not completed within the time required, damage will be sustained by the County. It is and will be impracticable and extremely difficult to ascertain and determine the actual damage which the County will sustain by reason of such delay; and it is therefore agreed that the Contractor will pay to the County the sum of money stipulated per day in the Division D, Section 5 for each and every day's delay in finishing the Work beyond the time prescribed. If the Contractor fails to pay such liquidated damages the County may deduct the amount thereof from any money due or that may become due the Contractor under the Contract.
- C. The Job Order Work shall be regarded as completed upon the date the County has recorded a notice of completion for the Job Order Work or otherwise accepted it in writing.
- D. Written requests for Contract time extensions, along with adequate justification, shall be submitted to the County not later than ten (10) calendar days following the delay.
- E. Any money due, or to become due the Contractor, may be retained to cover said liquidated damages and should such money not be sufficient to cover such damages, the County shall have the right to recover the balance from the Contractor or his sureties.

DIVISION F-7

DIVISION F. GENERAL CONDITIONS (Continued)

- F. Should the County, for any cause, authorize a suspension of work, the time of such suspension will be added to the time allowed for completion. Suspension of work by order of the County shall not be deemed a waiver of the claim of the County for damages for non-completion of the Work after the adjusted time as required above.

SECTION 8. Progress Schedule:

Prior to beginning work the Contractor shall submit to the County a practicable progress schedule of operations on a chart form approved by the County. The schedule of operations shall show the order in which the Contractor proposes to carry out the Work, the dates on which he/she will start each major subdivision of the Work, and the contemplated dates of completion of such subdivision. The Contractor shall submit an adjusted progress schedule on the approved form to reflect changed conditions. (Normally, a new schedule will be requested when schedule is more than fifteen (15) days in error).

SECTION 9. Temporary Utilities and Facilities:

- A. All water used on the Work will be furnished by the Contractor. The Contractor shall furnish the necessary temporary piping from the distribution point to the points on the site where water is necessary to carry on the Work and upon completion of the Work shall remove all temporary piping.
- B. The Contractor shall furnish and install all meters, all electric light and power equipment and wiring, all gas meters, gas equipment and piping that is necessary to perform his/her work and shall remove the same upon the completion of the Work. The Contractor shall pay for all power, light and gas used in the construction work.
- C. The Contractor shall furnish, wire for, install and maintain temporary electric light wherever it is necessary to provide illumination for the proper performance and/or inspection of the Work. The lighting shall provide sufficient illumination and shall be so placed and distributed that these Specifications can be easily read in every place where said work is being performed. This temporary lighting equipment may be moved about but shall be maintained throughout the Work, available for the use of the Engineer, Project Inspector, or any other authorized representative of the County whenever required for inspection.
- D. The Contractor shall provide and maintain for the duration of the Work, temporary toilet facilities for the workers. These facilities shall be of an approved type conforming to the requirements of the County Health Department, and shall be weathertight structures with raised floors. Structures are to have adequate light and ventilation and door equipped with latch or lock. Contractor shall service such facilities daily, maintaining same in a clean and sanitary condition. Portion of site occupied by toilet facilities shall be graded and cleaned up upon removal of facilities when so ordered and/or upon completion of Work.
- E. The County will pay directly to the utility companies connections fees, annexation fees, permit fees, acreage fees, and all other fees required by the utility companies and associated with the permanent utility services. If additional fees associated with the temporary services are required they will be paid by the Contractor.

County will not pay for water, gas, telephone and electricity consumed on the Project until after the County makes written request to the utility companies that billings be sent to the County. (Normally, the County will make these requests after the Project is accepted as complete.)

DIVISION F. GENERAL CONDITIONS (Continued)

SECTION 10. Permits:

The Contractor shall make application for all permits that are required for the performance of the Work by all laws, ordinances, rules, regulations, or orders, of any body lawfully empowered to make or issue the same and having jurisdiction, and shall give all notices necessary in connection therewith. The Contractor shall be reimbursed for the direct cost of all permits.

SECTION 11. Scope of Work and Procedures for Ordering Work, Pre Job Order Meeting

A. Pre Job Order Meeting

After award of the Contract and before the issuance of the first discrete Job Order under this Contract, the County will conduct a meeting to acquaint the Contractor with the County policies and procedures applicable to the execution of the Work and to develop mutual understanding relative to the administration of the Contract.

B. General Scope of Work

This is an indefinite-quantity Contract for construction services and supplies, and effective for the period stated in the specifications. The Contractor is required to perform any and all work requested by the County at any of the County's facilities. The Contractor is not allowed to "pick and choose" the projects it prefers. The Work of this Contract will be determined by the Detailed Scopes of Work issued in connection with individual Job Orders. The County makes no commitment as to the award of individual Job Orders. All costs associated with preparing Job Order Proposals shall be the responsibility of the Contractor.

C. Description Of Work

1. Work shall be performed only as authorized by Job Orders issued in accordance with the procedures for ordering work. The Contractor shall furnish to the County the construction services and supplies specified in the Job Orders in a total amount not to exceed the Maximum Contract Amount. The County will order at least the Minimum Contract Amount.
2. The Work of this Contract will be determined by individual Job Orders. The Contractor shall provide all pricing, management, design sketches, shop drawings, documents, labor, materials, supplies, parts (to include system components), transportation, plant, supervision, and equipment needed to complete each Job Order. The Contractor shall provide quality assurance as specified in strict accordance with the Contract. The Contractor shall also be responsible for site safety as well as site preparation and cleanup.
3. Contractor shall maintain accurate and complete records, files and libraries of documents to include state and local laws, ordinances, rules and regulations and manufacturers' instructions and recommendations which are necessary and related to the Work to be performed.

DIVISION F-9

DIVISION F. GENERAL CONDITIONS (Continued)

4. Contractor shall prepare and submit required reports, maintain current record drawings, and submit required information. The Contractor shall provide materials lists to include trade names, brand names, model, materials lists, model number, and ratings, if appropriate, for all materials necessary for a complete job.
5. In addition to the tasks and requirements in the County's Technical Specifications and the CTC, the County may, from time to time, require Non-prepriced Tasks. The parties will price these requirements in accordance with the procedures set forth below.
6. Unless specified otherwise in an individual Job Order, all parts of the Contract Documents, including without limitation the Construction Task Catalog, the County Technical Specifications, and the Detailed Scope of Work shall be used in the execution of work under the Contract and are incorporated into all Job Orders issued by the County.
7. The Contractor may be requested by the County, or as required for the filing of permits, to provide the incidental design of architectural, structural, mechanical, electrical, civil, or other engineering features of the Work. The design services shall be provided by architects or engineers registered and insured in the State of California to practice in the particular professional field involved. Professional liability coverage shall be at least \$1,000,000, with a deductible not to exceed \$100,000. All documents prepared by architects and engineers for the Contractor under this Contract are subject to review and approval of the County.

D. Procedure for Ordering Work

1. As the need exists for performance by the Contractor on work to be completed under the terms of this Contract, the County will notify the Contractor of a Project.
2. The Contractor shall respond by obtaining from the County the scope of the requirement and collect any documents, visiting the proposed site with the County staff, and participating in a Joint Scope Meeting which will at a minimum include establishment of the following:
 - a) Job Order number and title
 - b) Existing site conditions
 - c) Methods and alternatives for accomplishing work
 - d) Definition and refinement of requirements
 - e) Detailed Scope of Work
 - f) Requirements for design drawings, sketches, submittals, catalog cuts, samples, shop drawings, etc.
 - g) Tentative construction schedule (bar chart or critical path method schedule)
 - h) Preliminary quantity estimates
 - i) Staging areas and site access
 - j) Special conditions regarding unique facility operations
 - k) Safety requirements
 - l) Proposal due date
 - m) Mandatory Subcontracting Minimum
 - n) Outreach Program or SBE Program requirements

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DIVISION F. GENERAL CONDITIONS (Continued)

3. Upon completion of the joint scoping process, the County will issue a Request for Proposal and a Detailed Scope of Work, which will require the Contractor to prepare a Job Order Proposal for the work under consideration. The Detailed Scope of Work, unless modified by both the Contractor and the County, will be the basis on which the Contractor will develop his/her Job Order Proposal and the County will evaluate the Job Order Proposal.

E. Proposal Development

1. The Contractor will prepare Job Order Proposals in accordance with the following:
 - a) Prepriced Tasks: For prepriced tasks, the Contractor shall identify the task and quantities required from the CTC. The unit price set forth in the CTC shall serve as the base price for the purpose of the operation of this provision. The Contractor's Job Order Proposal shall include support documentation to indicate that adequate engineering and planning for the requirement has been done and that the tasks proposed are reasonable for the work to be performed. Documentation to be submitted with the Job Order Proposal shall include, but not be limited to, design drawings, calculations, catalog cuts, specifications, and architectural renderings, subcontractor list, required Outreach Program or SBE Program documentation, and construction schedule.
 - b) Non-Prepriced Tasks: Non-Prepriced Tasks, if any, shall be separately identified and submitted in the Job Order Proposal. Information submitted in support of Non-Prepriced Tasks shall include, but not be limited to, the following:
 - 1) Complete specifications and technical data, including task content, support drawings, job cost data, quality control and inspection requirements.
 - 2) Work schedule.
 - 3) Costing data shall include a cost analysis report, establishing the basis for selecting the approach proposed for accomplishment of the requirements. Unless otherwise directed by the County, costing data will be submitted demonstrating that the Contractor sought and received three quotes. The Contractor shall provide an installed unit price (or demolition price if appropriate), which shall include all costs required to accomplish the Non-Prepriced Task.
 - 4) The final price submitted for Non-Prepriced Tasks that are performed by the Contractor shall be according to the following formula:
 - a) $A = \text{Labor from the Construction Task Catalog}^{\text{®}}$ multiplied by the contractor's normal or other than normal adjustment factor.
 - b) $B = \text{Direct Equipment Costs from the Construction Task Catalog}^{\text{®}}$ multiplied by the contractor's normal or other than normal adjustment factor.
 - c) $C = \text{Direct material costs (supported by quotes)}$
 - d) $D = \text{Allowable profit on material} = (C) \times 10\%$

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DIVISION F. GENERAL CONDITIONS (Continued)

5) The final price submitted for Non-Prepriced Tasks that are performed by a subcontractor shall be according to the following formula:

- a) $E = \text{Subcontractor costs (supported by quotes)}$
- b) $F = \text{Contractor Allowance for Subcontractor Costs} = E \times 15\%$

6) Total Cost of Non-Prepriced Tasks = A + B + C + D + E + F

2. Following approval by the County of a Non-Prepriced Task and unit price, the Non-Prepriced Task unit price will be entered into the computer data base.
3. The total extended price for the Non-Prepriced Task will be determined by multiplying the unit price by the quantity required. The price offered in the proposal will be determined by multiplying the total extended price by an adjustment factor of 1.000.
4. After a Non-Prepriced Task is used on three separate Job Orders, the unit price for such task will be established, following approval by the County, and fixed as a permanent prepriced task which will no longer require price justification.
5. The County's determination as to whether an item is a prepriced task or a Non-Prepriced Task shall be final, binding and conclusive as to the Contractor.
6. The Contractor's Job Order Proposal shall include support documentation to indicate that adequate engineering and planning for the requirement has been done, and that the tasks proposed are reasonable for the work to be performed. Documentation to be submitted with the proposal shall include, but not be limited to:
 - a) Design drawings, calculations, specifications, and architectural renderings
 - b) Catalog cuts
 - c) Subcontractor, truckers, manufacturers and material supplier list for the Project
 - d) Construction schedule
 - e) Special insurance
 - f) For special equipment a copy of the warranty document may be required.
 - g) Required Outreach Program or SBE Program documentation.
7. Contractor's Job Order Proposal shall be submitted by the date indicated on the RFP. The time allowed for preparation of the Contractor's Job Order Proposal will depend on the complexity and urgency of the Job Order. On complex Job Orders, such as Job Orders requiring engineering/architectural drawings and approvals and permits, allowance will be made to provide adequate time for preparation and submittal of the necessary documents and the proposal and so reflected in the proposal due date entered on the RFP. In emergency situations and minor maintenance and repair Job Orders requiring immediate completion, the Job Order Proposal may be required quickly and the due date will be so indicated on the RFP.

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DIVISION F. GENERAL CONDITIONS (Continued)

8. Three calendar days after the submission of the Job Order Proposal, the required Outreach Program or SBE Program documentation will be due.

F. Review Of Job Order Proposal and Issuance Of Job Order

1. The County will evaluate the entire Job Order Proposal to determine whether the proposed installation is acceptable and whether the Contractor has selected the correct tasks and quantities. After reviewing a Job Order Proposal, the County may request the Contractor to revise its proposal. The Contractor shall revise and resubmit the proposal within 48 hours or within a reasonable timeframe determined by the County.
2. The Affirmative Action Office will review Good Faith Effort documentation, including the Mandatory Subcontracting Minimum, and list of subcontractors, truckers, suppliers, and manufacturers, to determine if the JOC Contractor has met the Outreach Program requirements.
3. The County reserves the right to reject a Job Order Proposal for any reason. The County also reserves the right not to issue a Job Order if that is determined to be in the County's best interests to do so or if the proposed cost exceeds the County's estimate. In these instances, the Contractor has no claim to recoup expenses incurred in preparing the Job Order Proposal or any other expenses. The County may pursue the performance of any work by other means.
4. By submitting a signed Job Order Proposal to the County, the Contractor agrees to accomplish the Detailed Scope of Work for the price submitted. It is the Contractor's responsibility to include the necessary tasks and quantities in the Job Order Proposal prior to delivering it to the County.
5. Each Job Order issued to the Contractor shall reference the Detailed Scope of Work which shall dictate the obligations of the Contractor. The Job Order Proposal does not govern the obligations of the Contractor or define the Scope of Work. All clauses of this Contract shall be applicable to each Job Order. Job Orders will be written on an appropriate form. The Job Order, signed by a duly authorized agent, constitutes the County's acceptance of the Contractor's price to complete the Detailed Scope of Work and compliance with the County's Outreach Program or SBE Program requirements. A signed copy will be provided to the Contractor.
6. In the event that immediate emergency response is necessary, the Contractor shall be required to conform to alternative procedures as established by the County. This alternative procedure may be more burdensome to the Contractor than the procedure described in this section.

G. Computer And Communications Equipment Requirements

1. The Contractor must maintain in an operational condition, a computer system capable of operating the JOC Management System supplied by the County. The Contractor may include

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DIVISION F. GENERAL CONDITIONS (Continued)

2. the cost of the system in its Adjustment Factor. The computer system must consist of at a minimum:
 - a. P866 MMX Pentium III Based Computer System with 256Mb RAM
 - b. 36X spin CD Rom Drive
 - c. 30 gigabyte or larger hard disk drive compatible with computer in item "a"
 - d. 3 Com Network Card and software
 - e. Voltage surge protection device
 - f. Internet Connection
 - g. Software:
 - i. MS Windows 2000, NT or XP
 - ii. Microsoft Office
 - iii. Microsoft Project
 - h. Hewlett Packard Office Jet 3000 or equal Plain paper fax
 - i. Telephone

2. County Furnished JOC Management System

The Contractor is required to use the County-furnished JOC management system for preparing and submitting Proposals in response to County issued Requests for Job Order Proposals. The Contractor will be trained by the County on the use of the system. The system is Internet based and called PROGEN Online. You will need an internet connection to run the system. This system contains an electronic version (copy) of the Construction Task Catalog, which can be accessed through the Internet to locate and select desired items from the CTC. Once the desired items are selected, the system provides for selection of quantities and based on the selected quantities, extends and totals CTC costs for each cost Proposal. The system permits introduction of Non-Prepriced Tasks and the application of the Adjustment Factors.

SECTION 12. Conduct of Work:

- A. The Contractor shall observe that the County reserves the right to do other work in connection with the Project by contract or otherwise, and he/she shall at all times conduct his/her work so as to impose no hardship on the County or others engaged in the work. The Contractor shall adjust, correct and coordinate his/her work with the work of others so that no discrepancies shall result in the whole work.
- B. The Contractor shall provide an adequate work force, materials of proper quality, and equipment to properly carry on the Work and to insure completion of each part in accordance with his/her schedule and with the time agreed.
- C. The Contractor shall personally superintend the Work and shall maintain a competent superintendent or foreman at all times until the Work is accepted by the County. This superintendent shall be empowered to act in all matters pertaining to the Work.
- D. Daily Manpower Reports shall be signed by the Contractor, or his/her Superintendent, and submitted weekly to the County.

DIVISION F. GENERAL CONDITIONS (Continued)

- E. Unless otherwise specified, the Contractor shall clear all obstructions and prepare the site ready for the construction. He shall verify dimensions and scale of plot plans, and shall check all dimensions, levels, and construction.
- F. Where work of one trade joins, or is on other work, there shall be no discrepancy or incomplete portions when the total Project is complete. In engaging one kind of work with another, marring or damaging same will not be permitted. 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 the County.
- G. The Contractor shall anticipate the relations of the various trades to progress of the Work and shall see that required anchorage or blocking is furnished and set at proper times. Anchorage and blocking for each trade shall be a part of same, except where stated otherwise.
- H. Proper facilities shall be provided at all times for access of the County representatives to conveniently examine and inspect the Work.
- I. Watchmen, at Contractor's option, shall be maintained during the progress of the Work as required, at the expense of the Contractor.
- J. If any subcontractor, supplier, trucker, manufacturer, or other person employed by the Contractor on the Project shall appear to the County Staff to be incompetent or to act in a disorderly or improper manner, he/she shall be discharged immediately on the written request of the County, and such person shall not again be employed on the Work.
- K. Once having started the Work, the Contractor shall proceed with dispatch and without interruption until the Project is completed.
- L. Precautions shall be exercised at all times for the protection of persons (including employees) and property. The safety provisions of applicable laws, building and construction codes shall be observed. Machinery, equipment, and all hazards shall be guarded or eliminated in accord with recommended safety provisions established by the Associated General Contractors of America, to the extent that such provisions are not in contravention of applicable law. The Contractor shall protect hazards with adequately constructed guard rails and/or barricades and shall provide lanterns, warning lights, and the like, as necessary. The Contractor shall eliminate attractive nuisances from the Work and from the site. To this end he/she shall so dispose, store, guard, and protect the premises and all work, materials, equipment and both permanent and temporary construction as to preclude the unauthorized use thereof by children or others and particularly to eliminate possible consequent injury to unauthorized persons.
- M. Activities which are inherently loud and which might disturb neighbors (such as use of helicopters to hoist materials and equipment; use of earth moving equipment; use of pile driving equipment) shall not begin before 8:00 a.m. and shall not continue past 6:00 p.m.
- N. In no case shall the County or Architect be responsible for construction means, methods, techniques, sequences or procedures or for safety precautions and programs in connection with the other work nor shall the County or Architect be responsible for Contractor's failure to employ proper safety procedures.

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DIVISION F. GENERAL CONDITIONS (Continued)

SECTION 13. Responsibility For Site Conditions:

The following shall constitute exceptions, and the sole exceptions, to the responsibility of the Contractor set forth in Section 4, in the Instructions to Bidders:

- A. If, during the course of the Work, the Contractor encounters active utility installations which are not shown or indicated in the plans or in the specifications, or which are found in a location substantially different from that shown, and such utilities are not reasonably apparent from visual examination, then he/she shall promptly notify the County in writing. Where necessary for the Work of the Contract, the County shall issue a written order to the Contractor to make such adjustment, rearrangement, repair, removal, alteration, or special handling of such utility, including repair of the damaged utility. For the purposes of the foregoing, "active" shall mean other than abandoned, and "utility installations" shall include the following: Steam, petroleum products, air, chemical, water, sewer, storm water, gas, electric, and telephone pipe lines or conduits.

The Contractor shall perform the Work described in such written order and compensation therefor will be made in accordance with Section 22, relating to changes in the Work. Except for the items of cost specified in such Sections, the Contractor shall receive no compensation for any other cost, damage or delay to him/her due to the presence of such utility. If the Contractor fails to give the notice specified above and thereafter acts without instructions from the County, then Contractor shall be liable for any or all damage to such utilities or other work of the Contract which arises from Contractor operations subsequent to discovery thereof, and Contractor shall repair and make good such damage at his/her own cost.

- B. If the Contract requires excavation or other work to a stated limit of excavation beneath the surface, and if during the course of the Work the County orders a change of depth or dimensions of such subsurface work due to discovery of unsuitable bearing material or for any other cause, then adjustment to Contract price for such change will be made in accordance with Section 22. Except for the items of cost specified therein, the Contractor shall receive no compensation for any other cost, damage, or delay to him due to the presence of such unsuitable bearing material or other obstruction.

SECTION 14. Inspection:

- A. The Contractor shall at all times permit the County and its authorized agents to visit and inspect the Work or any part thereof and the shops where work is in preparation. This obligation shall include maintaining proper facilities and safe access for such inspection. Where the Contract requires work to be tested, it shall not be covered up until inspected and approved by the County, and the Contractor shall be solely responsible for notifying the County where and when such work is in readiness for inspection and testing. Should any such work be covered without such test and approval, it shall be uncovered at the Contractor's expense.
- B. Whenever the Contractor intends to perform work on Saturday, Sunday, or a legal holiday, he/she shall give notice to the County of such intention at least two working days prior to performing such work, or such other period as may be specified, so that the County may make necessary arrangements.
- C. The inspection of the Work or materials shall not relieve the Contractor of any of his/her obligations to fulfill his/her Contract as prescribed. Work and materials not meeting such requirements shall be made good and unsuitable work or materials may be rejected, notwithstanding that such work or materials have been previously inspected or that payment has been made.

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DIVISION F. GENERAL CONDITIONS (Continued)

D. Construction review of the Contractor's performance by the County is not intended to include the review of the adequacy of the Contractor's safety measures, in, on, or near the construction site.

SECTION 15. Rejection of Materials:

- A. The Contractor shall promptly remove from the premises all materials condemned by the County as failing to conform to the Contract, whether incorporated in the Work or not, and the Contractor shall promptly replace and reexecute his/her own work in accordance with the Contract and without expense to the County and shall bear the expense of making good all work of other Contractors destroyed or damaged by such removal.
- B. If the Contractor does not remove such condemned work and materials within reasonable time, fixed by written notice, the County may remove them and may store the materials at the expense of the Contractor. If the Contractor does not pay the expenses of such removal within ten (10) days thereafter, the County may upon ten (10) days written notice, sell such materials at auction or at private sale and shall account for the net proceeds thereof after deducting all costs and expenses that should have been borne by the Contractor.

SECTION 16. Interpretation of Contract Requirements:

- A. Correlation: The Contract Documents shall be interpreted as being complementary in requiring a complete work ready for use and occupancy or, if not to be occupied, operation. Any requirement occurring in any one of the documents is as binding as though occurring in all.
- B. Conflicts in the Contract Documents: In case of discrepancies or conflicts in information or requirements within the Contract Documents or between different parts of the Contract Documents, the most expensive requirement shown or specified shall be the basis of the Contract.
- C. Omissions: If the Contract Documents are not complete as to any minor detail of a required construction system or with regard to the manner of combining or installing of parts, materials, or equipment, but there exists an accepted trade standard for good construction, such detail shall be deemed to have been impliedly required by the Contract Documents in accordance with such standard.
1. "Minor detail" shall include the concept of substantially identical components, where the price of each such component is small even though the aggregate cost or importance is substantial, and shall include a single component which is incidental, even though its cost or importance may be substantial.
 2. The quality and quantity of the parts or material so supplied shall conform to trade standards and be compatible with the type, composition, strength, size, and profile of the parts or materials otherwise set forth in the Contract Documents.

SECTION 17. Clarifications and Additional Instruction:

- A. Notification by Contractor: Should the Contractor discover any conflicts, omissions, or errors in the Contract Documents or have any question concerning interpretation or clarification of the Contract Documents, or if it appears to him/her 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, he/she shall immediately notify the County in writing through the Construction Supervisor, and request interpretation, clarification or furnishing of additional detailed instructions concerning the Work. All such questions shall be resolved and instructions to

DIVISION F. GENERAL CONDITIONS (Continued)

the Contractor issued within a reasonable time by the County, whose decision shall be final and conclusive.

Should the Contractor proceed with the work affected before receipt of instructions from the County, he/she shall remove and replace or adjust any work which is not in accordance therewith and he/she shall be responsible for any resultant damage, defect or added cost.

- B. Supplemental Instructions: During the course of the Work the Architect, Engineer or County may issue Supplemental Instructions regarding the Work. These Supplemental Instructions will supplement the Plans and Specifications in order to clarify the intent of the Contract Documents by adjustment to meet field conditions or to make the various phases of the Work meet and join properly. A Supplemental Instruction involves no change in Contract time or price. Performance, partially or in full, of a Supplemental Instruction shall constitute a waiver of claim for a change in Contract time or price for the Work covered by the Supplemental Instruction, unless a Supplemental Job Order has been issued.
- C. Supplemental Job Orders: See Section 22.

SECTION 18. Product and Reference Standards:

- A. Product Designation: When descriptive catalogue designations, including manufacturer's name, product brand name, or model number are referred to in the Contract Documents, such designations shall be considered as being those found in industry publications of current issue at date of first invitation to bid.
- B. Reference Standards: When standards of the Federal Government, trade societies, or trade associations are referred to in the Contract Documents by specific date of issue, these shall be considered a part of this Contract. When such references do not bear a date of issue, the current published edition at date of first invitation to bid shall be considered as part of this Contract.

SECTION 19. Substitutions, Materials, Articles, and Equipment:

- A. As part of the Job Order Proposal Package, within the time designated in the Request for Proposal, the Contractor shall submit for approval to the County a complete list of all materials it is proposed to use on a Job Order which differ in any respect from materials specified. This list shall include all materials which are proposed by the subcontractors as well as by the Contractor for use in work of his/her Contract and which are not specifically mentioned in the Specifications.
- B. Substitutions: Wherever the name or brand of a manufacturer's article is specified herein, it is used as a measure of quality and utility or a standard. If the Contractor desires to use any other brand or manufacturer of equal quality and utility to that specified, he/she shall make application to the County in writing for any proposed substitutions. Such proposed substitution shall be accompanied by evidence satisfactory to the County that the material or process is equal to that specified. Request for substitution shall be made in ample time for the County's consideration as no delay or extra time will be allowed on account thereof. Evidence furnished to the County by the Contractor shall consist of adequate size samples of material, testing laboratory reports on material or process, manufacturer's specification data, field reports on product's approval and use by other public agencies, material costs, and installation costs and maintenance provisions and experience or other data as required by the County. The County's decision concerning the refusal or acceptance of proposed substitute for that specified shall be accepted as final. Failure to submit competent evidence as required and requested by County shall be considered grounds for refusal of substitution.

DIVISION F. GENERAL CONDITIONS (Continued)

1. No such substitute will be considered unless accompanied by complete information and descriptive data necessary to determine the equality of the offered materials, articles, or equipment. Samples shall be provided when requested by the County.
 2. The Contractor shall note that the burden of proof as to the comparative quality or suitability of the offered materials, articles, or equipment shall be upon the Contractor. The County shall be the sole judge as to such matters. In the event that the County rejects the use of such substitute materials, articles, or equipment, then one of the particular products designated by brand name shall be furnished.
- C. Material shall be new and of quality specified. When not particularly specified, material shall be the best of its class or kind. The Contractor shall, if required, submit satisfactory evidence as to the kind and quality of material. Price, fitness and quality being equal, preference shall be given to products made in California, in accordance with Section 4380 et. seq., of the Government Code, State of California.
- D. Mechanical equipment, fixtures and materials shall be delivered in original shipping crates to the job site and the County shall be notified of the receipt of such equipment, fixtures and material before uncrating. The County will, when desired, inspect such equipment, fixtures or material to determine any damage or deviation from that specified. Items damaged during delivery shall be rejected.
- E. All materials shall be delivered so as to insure a speedy and uninterrupted progress of the Work. Same shall be stored so as to cause no obstruction, and so as to prevent overloading of any portion of the structure, and the Contractor shall be entirely responsible for damage or loss by weather or other cause.
- F. Installation. Unless otherwise noted, all manufactured materials, products, processes, equipment or the like shall be installed in accordance with manufacturer's printed instructions or specifications.

SECTION 20. Shop Drawings, Descriptive Data, Samples:

- A. The Contractor shall submit promptly to the County, so as to cause no delay in the Work, all shop drawings, descriptive data and samples for the various trades as required by the specifications, and offers of alternatives, if any. Such submittals shall be checked and coordinated by the Contractor with the work of other trades involved before they are submitted to the County for examination.
- B. The Contractor shall submit to the County shop or diagram drawings in the number of copies as required in submittal schedule, or nine (9) copies if no schedule is included in these documents. The drawings shall show completely the Work to be done; any error or omission shall be made good by the Contractor at his/her own expense, even though the Work be installed before same becomes apparent, as approval by the County covers general layout only. Fabrication, details and inspection shall conform to approved Contract Drawings.
- C. Descriptive Data: Submit sets of manufacturer's brochures or other data required by the specifications in the number of copies as required in submittal schedule, or nine (9) copies if no schedule is included in these documents. The County will examine such submittals, noting thereon corrections, and return three copies with a letter of transmittal indicating actions taken by the County or required of the Contractor.

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DIVISION F. GENERAL CONDITIONS (Continued)

- D. Samples: Submit samples of articles, materials or equipment as required by the specifications. The Work shall be in accordance with the approval of the samples. Samples shall be removed from County property when directed. Samples not removed by the Contractor, at the County's option, will become the property of the County or will be removed or disposed of by the County at Contractor's expense.
- E. The County will examine submittals, with reasonable promptness. Return of submittals to the Contractor shall not relieve the Contractor from responsibility for deviations and substitutions from the Contract plans and specifications, nor shall it relieve him from responsibility for errors in the submittals. A failure by the Contractor to identify, in his/her letter of transmittal, material deviations from the plans and specifications shall void the submittal and any action taken thereon by the County. When specifically requested by the County, the Contractor shall resubmit such shop drawings, descriptive data, and samples as may be required.
- F. If any mechanical, electrical, structural, or other changes are required for the proper installation, support or fit of substitute materials, articles, or equipment, or because of deviations from the Contract plans and specifications, such changes shall not be made without the consent of the County and shall be made without additional cost to the County.

SECTION 21. Samples and Tests:

The County reserves the right, at its own expense, to order tests of any part of the Work. If, as a result of any such test, the Work is found unacceptable, it will be rejected and any additional test required by the County shall be at Contractor's expense. Unless otherwise directed, all samples for testing will be taken by the County from the materials, articles or equipment delivered, or from work performed, and tests will be under the supervision of, or directed by, and at such places as may be convenient to the County. Materials, articles, and equipment requiring tests shall be delivered in ample time before intended use to allow for testing, and none may be used before receipt of written approval by the County. Any sample delivered to the County or to the premises for examination, including testing, shall be disposed of by the Contractor at his/her own expense within not more than ten (10) days after the Contractor acquires knowledge that such examination is concluded, unless otherwise directed by the County.

SECTION 22. Changes in Work:

- A. The County reserves the right to order, at any time, in writing, additions, deletions, or revisions in the Work, without voiding the Job Order, and the Contractor shall comply with such order. No change or deviation from the Job Order will be made without authority in writing from the County.
- B. Changed Work shall be performed in accordance with the original requirements of the Contract Documents, except as changed in writing by the County.
- C. A Supplemental Job Order may adjust the Job Order price either upward or downward in accordance with the procedures for ordering work.

1. Allowable Time Extensions:

For any change in the Work, the Contractor shall be entitled only to such adjustments in time by which completion of the Job Order is delayed due to performance of the changed work. Each estimate for a change in the Work submitted by the Contractor shall state the amount of extra time that he considers should be allowed for making the requested change.

DIVISION F. GENERAL CONDITIONS (Continued)

2. Failure to Agree as to Cost:

Notwithstanding the failure of the County and the Contractor to agree as to cost of the proposed change in work, the Contractor, upon written order from the County, shall proceed immediately with the changed work. Daily job records shall be kept, and when agreed to by the Contractor and the construction inspector, it shall become the basis for payment of the changed work. Agreement and execution of the daily job record by the construction inspector shall not preclude subsequent adjustment based upon a later audit by the County.

SECTION 23. Labor

Every part of the Work shall be accomplished by workers, laborers, or mechanics especially skilled in the class of work required and workmanship shall be the best.

SECTION 24. Occupancy by the County Prior to Acceptance:

- A. The County reserves the right to occupy all or any part of the Project prior to completion of the Job Order, upon written order therefor. In such event, the Contractor will be relieved of responsibility for any injury or damage to such part as results from such occupancy and use by the County.
- B. Such occupancy does not constitute acceptance by the County of the Job Order Work or any portion thereof, nor will it relieve the Contractor of responsibility for correcting defective work or materials found at any time before the acceptance of the Job Order Work as set forth in Section 27 or during the guarantee period after such acceptance, as set forth in Section 29.

SECTION 25. Preservation and Cleaning:

- A. The Contractor shall protect and preserve the Work from all damage or accident, providing any temporary roofs, window and door coverings, boxings or other construction as required by the County. This shall include any adjoining property of the County and others.
- B. The Contractor shall properly clean the Work as it progresses. As directed during construction, rubbish shall be removed, and at completion the whole Work shall be cleaned and all temporary construction, equipment and rubbish shall be removed from the site, all being left in a clean and proper condition satisfactory to the County.
- C. Contractor shall clean, repair, replace and restore County property marred, damaged or defaced by the Contractor or his/her subcontractors.

SECTION 26. Payment of Federal or State Taxes:

Any Federal, State or local tax payable on articles furnished by the Contractor, under the Contract, shall be included in the Contract price and paid by the Contractor. The County will furnish Excise Tax Exemption Certificates to the Contractor for any articles which are required to be furnished under the Contract and which are exempt from Federal Excise Tax.

SECTION 27. Acceptance:

- A. The Work shall be accepted in writing only when it shall have been completed satisfactorily to the County. Partial payments shall not be construed as acceptance of any part of the Work.
- B. 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 heretofore.

DIVISION F. GENERAL CONDITIONS (Continued)

- C. County shall be given adequate opportunity to make any necessary arrangements for fire insurance and extended coverage.
- D. Final acceptance of Job Order Work will not be given until all requirements of the Contract Documents are complete and approved by the County. This shall include, but is not limited to, all construction, guarantee forms, parts list, schedules, tests, operating instructions, and as-built drawings - all as required by the Contract Documents.

SECTION 28. Final Payment and Waiver to Claims:

After the official acceptance of the Job Order Work by the County, the Contractor shall submit to the County, on a form acceptable to the County, a request for payment in full (i.e. release of retention) in accordance with the Contract. The form, "Statement to Accompany Final Payment," shall be completed, signed by the Contractor, and submitted to the County with the invoice for release of retention.

SECTION 29. Guarantee Period:

- A. The Contractor hereby unconditionally guarantees that the Work will be done in accordance with requirements of all Contract Documents, and further guarantees the Work of the Contract to be and remain free of defects in workmanship and materials for a period of one year from the date of acceptance of the Job Order Work, unless a longer guarantee period is specifically called for. The Contractor hereby agrees to repair or replace any and all work, together with any other adjacent work which may be displaced in so doing, that may prove to be not acceptable in its workmanship or material within the guarantee period specified, without any expense whatsoever to the County, ordinary wear and tear and unusual abuse or neglect excepted.
- B. The Contractor further agrees that within ten (10) calendar days after being notified in writing by the County of any work not in accordance with the requirements of the Contract or any defects in the Work, he/she will commence and prosecute with due diligence all work necessary to fulfill the terms of this guarantee, and to complete the work within a reasonable period of time, and in the event he/she fails to so comply, he/she does hereby authorize the County to proceed to have such work done at the Contractor's expense and he/she will pay the cost thereof upon demand. The County shall be entitled to all costs, including reasonable attorney's fees, necessarily incurred upon the Contractor's refusal to pay the above costs.

Notwithstanding the foregoing paragraph, in the event of an emergency constituting an immediate hazard to the health or safety of the County's employees, property, or licensees, the County may undertake, at the Contractor's expense without prior notice, all work necessary to correct such hazardous conditions when it was caused by work of the Contractor not being in accordance with the requirements of this Contract.

- C. The General Contractor and each of the listed subcontractors shall execute and furnish the County with the standard guarantee form.
- D. Contractor's obligations under this Section 29 are in addition to and not in limitation of any other obligation of Contractor under the Contract Documents. Enforcement of Contractor's express warranties and guarantees to repair contained in the Contract Documents shall be in addition to and not in limitation of any other rights or remedies the Public Agency may have under the Contract Documents or at law or in equity for defective work. Nothing contained in this Section 29 shall be construed to establish a period of limitation with respect to other obligations of Contractor under the Contract Documents. Establishment of the Guarantee Period relates only to specific

DIVISION F. GENERAL CONDITIONS (Continued)

obligations of Contractor to correct the Work and in no way limits either Contractor's liability for defective work or the time within which proceedings may be commenced to enforce Contractor's obligations under the Contract Documents.

SECTION 30. Wage Rates:

Pursuant to Labor Code Section 1773.2 the governing body of the Public Agency has ascertained the general prevailing rates of wages per diem for each craft, classification, or type of worker and said rates are specified in the Notice to Contractors for this Work. Said rates are on file with the Public Agency and copies of said rates are available to any interested party on request. Pursuant to Labor Code Section 1773.2, said rates shall be posted at the job site. Said rates shall be determined at the time an individual Job Order is issued to the Contractor.

SECTION 31. Underground Service Alert:

The Contractor shall notify Underground Service Alert (800) 642-2444, 48 hours prior to any excavation.

SECTION 32. Archaeological Materials:

If archaeological materials are uncovered during grading, trenching, or other onsite excavation, earthwork within 100 feet of these materials shall be stopped until a professional archaeologist who is certified by the Society of California Archaeology (SCA) and/or the Society of Professional Archaeology (SOPA) has had an opportunity to evaluate the significance of the "find" and suggest appropriate mitigation measures, if they are deemed necessary.

SECTION 33. Payment of Withheld Funds:

Upon the Contractor's request, the County will make payment of funds withheld to ensure performance under this Contract if the Contractor complies with the requirements of Public Contract Code Section 22300. Contractor shall deposit in escrow with the Treasurer-Tax Collector or with a bank acceptable to the County, securities eligible for the investment of funds under Government Code Section 16430 or bank or savings and loan certificates of deposit, upon the following conditions:

- A. The Contractor shall bear the expense of the County and the escrow agent, either the County Treasurer-Tax Collector or the bank, in connection with the escrow deposit made.
- B. Securities or certificates of deposit to be placed in escrow shall be of a value at least equivalent to the amounts withheld from the Contractor pursuant to this section. Securities shall be valued by the County Treasurer-Tax Collector, whose decision shall be final.
- C. The Contractor shall enter into an escrow agreement substantially similar to the form set forth in Section 22300 of the Public Contract Code, except the form will include provisions governing inter alia any decrease in the value of securities on deposit. The form will be furnished by the County, on written request by the Contractor.
- D. The Contractor shall obtain the written consent of the surety to such agreement.
- E. If the securities are not listed as eligible under Government Code Section 16430, Contractor shall have obtained approval of the securities by the County Treasurer-Tax Collector before bid opening.

DIVISION F. GENERAL CONDITIONS (Continued)

F. SECTION 34. Disputes:

Disagreements between the County and Contractor concerning the meaning, requirements, or performance of this Contract shall be subject to final determination in writing by the Director, or designee, Contra Costa County Public Works Department, or in accordance with the applicable procedures (if any) required by the State or Federal Government.

SECTION 35. Claims by Contractor:

Pursuant to Public Contract Code Section 20104(a), all claims by Contractor of \$375,000 or less are subject to Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3 of the Public Contract Code, which is incorporated into the Contract and which provides as follows:

ARTICLE 1.5

Resolution of Construction Claims

§20104. (a) (1) This article applies to all public works claims of three hundred seventy-five thousand dollars (\$375,000) or less which arise between a contractor and a local agency.

(2) This article shall not apply to any claims resulting from a contract between a contractor and a public agency when the public agency has elected to resolve any disputes pursuant to Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2.

(b)(1) "Public work" has the same meaning as in Sections 3100 and 3106 of the Civil Code, except that "public work" does not include any work or improvement contracted for by the state or the Regents of the University of California.

(2) "Claim" means a separate demand by the contractor for (A) a time extension, (B) payment of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public work and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to, or (C) an amount the payment of which is disputed by the local agency.

(c) The provisions of this article or a summary thereof shall be set forth in the plans or specifications for any work which may give rise to a claim under this article.

(d) This article applies only to contracts entered into on or after January 1, 1991.

§20104.2. For any claim subject to this article, the following requirements apply:

(a) The claim shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment. Nothing in this subdivision is intended to extend the time limit or supersede notice requirements otherwise provided by contract for the filing of claims.

(b)(1) For claims of less than fifty thousand dollars (\$50,000), the local agency shall respond in writing to any written claim within 45 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the local agency may have against the claimant.

DIVISION F. GENERAL CONDITIONS (Continued)

(2) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the local agency and the claimant.

(3) The local agency's written response to the claim, as further documented, shall be submitted to the claimant within 15 days after receipt of the further documentation or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.

(c)(1) For claims of over fifty thousand dollars (\$50,000) and less than or equal to three hundred seventy-five thousand dollars (\$375,000), the local agency shall respond in writing to all written claims within 60 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the local agency may have against the claimant.

(2) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the local agency and the claimant.

(3) The local agency's written response to the claim, as further documented, shall be submitted to the claimant within 30 days after receipt of the further documentation, or within a period of time no greater than that taken by the claimant in producing the additional information or requested documentation, whichever is greater.

(d) If the claimant disputes the local agency's written response, or the local agency fails to respond within the time prescribed, the claimant may so notify the local agency, in writing, either within 15 days of receipt of the local agency's response or within 15 days of the local agency's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a demand, the local agency shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(e) Following the meet and confer conference, if the claim or any portion remains in dispute, the claimant may file a claim as provided in Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the claimant submits his or her written claim pursuant to subdivision (a) until the time that claim is denied as a result of the meet and confer process, including any period of time utilized by the meet and confer process.

(f) This article does not apply to tort claims and nothing in this article is intended nor shall be construed to change the time periods for filing tort claims or actions specified by Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code.

§20104.4. The following procedures are established for all civil actions filed to resolve claims subject to this article:

(a) Within 60 days, but no earlier than 30 days, following the filing or responsive pleadings, the court shall submit the matter to nonbinding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide for the selection within 15 days by both parties of a disinterested third person as mediator, shall be commenced within 30 days of the submittal, and shall be concluded within 15 days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to the court or by stipulation of both parties. If the parties fail to select a mediator within the 15-day period, any party may petition the court to appoint the mediator.

DIVISION F. GENERAL CONDITIONS (Continued)

(b)(1) If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of that code. The Civil Discovery Act of 1986 (Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration.

(2) Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of this article shall be experienced in construction law, and, upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates of pay not to exceed their customary rate, and such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall these fees or expenses be paid by state or county funds.

(3) In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, any party who after receiving an arbitration award requests a trial de novo but does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, pay the attorney's fees of the other party arising out of the trial de novo.

(c) The court may, upon request by any party, order any witnesses to participate in the mediation or arbitration process.

§20104.6. (a) No local agency shall fail to pay money as to any portion of a claim which is undisputed except as otherwise provided in the contract.

(b) In any suit filed under Section 20104.4, the local agency shall pay interest at the legal rate on any arbitration award or judgment. The interest shall begin to accrue on the date the suit is filed in a court of law.

SECTION 36. Toxic and Hazardous Materials and Waste

A. Asbestos: Operations which may cause release of asbestos fibers into the atmosphere shall meet the requirements of CAC Title 8, General Industrial Safety Orders, Section 5208. 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. Such materials can include resilient flooring, existing gypsum wallboard, asbestos-cement board, spray-on fiber-proofing for steel, cement plaster, asbestos pipe insulation and acoustical sprays, tiles and boards.

B. Toxic Materials:

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

C. Lead based paint: Do not use lead based paint. Lead based paint is defined as:

1. Any paint containing more than five-tenths of one per centum 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;

DIVISION F. GENERAL CONDITIONS (Continued)

2. For paint manufactured after June 22, 1977, any paint containing more than six one-hundredths of one per centum 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.
- D. Hauling and disposal: Meet requirements of CAC Title 22, Division 4, Chapter 30, "Minimum Standards for Management of Hazardous and Extremely Hazardous Wastes."
- E. Asbestos Prohibited: No products or materials containing asbestos shall be incorporated into the work without the prior written approval of the County.

SECTION 37. Equal Employment Opportunity:

To the extent prohibited by law, the Contractor agrees not to discriminate against any employee, subcontractor or applicant for employment on the basis of race, color, religion, religious creed, national origin, ancestry, sex, age, physical handicap, medical condition, or marital status, and agrees to comply with all laws, rules and regulations relating to equal employment opportunity. The Contractor further agrees to include language in all subcontracts requiring the subcontractors to the extent prohibited by law, not to discriminate against any employee, subcontractor or applicant for employment on the basis of race, color, religion, religious creed, national origin, ancestry, sex, age, physical handicap, medical condition, or marital status, and to comply with all laws, rules and regulations relating to equal employment opportunity.

DIVISION F. GENERAL CONDITIONS (Continued)

GUARANTEE

We hereby guarantee to the County of Contra Costa the

(Type of Work)

which we have installed at _____
(Address)

_____, California, for _____ year(s) use from date of acceptance of Job Order Work. We agree to repair or replace to the satisfaction of the Public Agency any or all such work that may prove defective in workmanship or materials within that period, ordinary wear and tear and unusual abuse or neglect excepted, together with any other work which may be damaged or displaced in so doing. If we fail to comply with the above mentioned conditions after being notified in writing, pursuant to Section 29 in the General Conditions of the Contract, we, collectively and separately, do hereby authorize the owner to proceed to have the defects repaired and made good at our expense and we will pay the costs and charges therefore immediately upon demand. This guarantee covers and includes any special terms, including time periods, specified for this Work or materials in the plans and specifications for this Project.

Section 29 in the General Conditions of the Contract fully applies to this Guarantee.

SUBCONTRACTOR

Date: _____

Affix Corporate Seal)

GENERAL CONTRACTOR

Date: _____

Affix Corporate Seal)

NOTE: If the firm is not a corporation, add a paragraph stating the type of business organization and the capacity and authority of the person signing the guarantee.

STATEMENT TO ACCOMPANY

FINAL PAYMENT

To: Contra Costa County
County Administration Building
Martinez, CA 94553

Re: Final Payment

Project

Dear Sir:

The undersigned Contractor represents and agrees that the final payment includes all claims and demands, of whatever nature, which he/she has or may have against the County of Contra Costa in connection with the Contract to construct the project designated above, and that final payment by Contra Costa County shall discharge and release it from any and all claims.

The undersigned hereby certifies that all work, labor, and materials on this project have been furnished and purchased in full compliance with the Contract and with all applicable laws and regulations.

The undersigned hereby agrees that the final Contract sum shown below is true and correct:

Original Contract Price.....	\$ _____
Net Change by Change Orders	\$ _____
Less Forfeited Withheld Amounts.....	\$ _____
Less Liquidated Damages.....	(\$ _____)
FINAL CONTRACT PRICE	\$ _____

The undersigned states that his claim for final payment is true and correct, that no part has been theretofore paid, and that the amount therein is justly due.

I declare under penalty of perjury that the foregoing is true and correct.

Dated _____, at (City) _____, California.

DIVISION G. SUPPLEMENTARY GENERAL CONDITIONS

The following shall modify, delete, and/or add to Division F, General Conditions. Where any section, article, paragraph, or subparagraph in the General Conditions is supplemented by one of the following paragraphs, the provisions of such section, article, paragraph, or subparagraph shall remain in effect and the supplemental provisions shall be considered as added thereto. Where any section, article, paragraph, or subparagraph in the General Conditions is amended, voided, or superseded by and of the following paragraphs, the provisions of such section, article, paragraph, or subparagraph not so amended, voided, or superseded shall remain in effect.

1. SECTION 1. Definitions-

Replace the following:

“Adjustment Factor - The Contractor’s competitively bid adjustment to the Unit Prices as listed in the Construction Task Catalog®. Contractors must bid three sets of Adjustments Factors, one set for projects located within General Facilities, one set for projects located within Detention Facilities and one set for project located within OSHPD/HCAI Facilities. Each set will include an Adjustment Factor for work accomplished during Normal Working Hours, and one for work to be performed during Other than Normal Working Hours. The total number of Adjustment Factors is six.”

Add the following:

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

Replace the following:

“Construction Task Catalog® or CTC - A comprehensive listing of construction related tasks, together with a specific unit of measurement and a published Unit Price for each listed task.

Detailed Scope of Work - The Detailed Scope of Work is the complete description of services or work that the Contractor is obligated to complete under an individual Job Order. The Detailed Scope of Work will include documentation for a given Project. Documentation may include a narrative description of the Work, specifications, partial design documents, or full design documents, depending on the complexity of the specific Project.”

Add the following:

“Detention Facilities Normal Working Hours – Work performed during Normal Working Hours between the hours of 8:00 AM and 5:00 PM, Monday through Friday excluding County Holidays within a secured area Detention Facility and/ or Juvenile Justice Center.

Detention Facilities Other than Normal Working Hours - Work performed during hours where the majority of shift work takes place outside the hours of Normal Working Hours,

5:00 PM to 8:00 AM, Saturdays, Sundays and County Holidays within a secured area Detention Facility and/ or Juvenile Justice Center.”

Replace the following:

“Job Order - A written order issued by the County that describes the Work to be accomplished under this Contract. The County may issue any number of Job Orders under this Contract. The County shall have the sole discretion to determine the number of Job Orders issued, but the number is limited by the amount of time allowed under this Contract, the Maximum Contract Value, and the Minimum Contract Value. The County will be responsible for the development of each Job Order as well as the supervision and acceptance of the Work covered by the Job Order. Each Job Order will include a Detailed Scope of Work, a lump sum, firm fixed Job Order Price, a Job Order Completion Time for the Work, and any special conditions that might apply to that specific Job Order, such as liquidated damages.”

Add the following:

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

Replace the following:

“Job Order Proposal or Job Order Proposal Package - The Contractor’s offer to do work. It refers to the documents prepared by the Contractor quoting a firm, fixed Job Order Price to achieve a specific Detailed Scope of Work, as requested by the County. The Job Order Proposal will contain shop drawings and sketches, permits and submittals as necessary, a detailed Job Order Price Proposal comprised of line items from the Construction Task Catalog®, supporting documentation for any Non Pre-priced Tasks, a construction schedule, a list of subcontractors or Suppliers, and other documentation as may be required by the County prior to the issuance of an individual Job Order.”

Replace Job Order Sum (in General Conditions, Division F-2) with the following:

“Job Order Price - The sum stated in the approved Job Order including authorized adjustments, which is the total amount payable by the County to the Contractor for the performance of the Work under the Job Order.

Replace Job Order Time (in General Conditions, Division F-2) with the following:

Job Order Completion Time - The time as stated in Job Order to complete the Detailed Scope of Work so that it is ready for final acceptance as evidenced by the County's issuance of a notice of completion.

Replace the following:

Joint Scope Meeting - Meeting at the Project site attended by the County and the Contractor to jointly scope out the requirements of the Project prior to the finalization of the Detailed Scope of Work. Discussions and decisions at the meeting may become part of the Detailed Scope of Work.

Maximum Contract Value - The maximum total dollar value of work that the County may order during the term of the Contract.

Minimum Contract Value - The minimum total dollar value of work that the County may order and that the Contractor has the opportunity to perform during the term of the Contract.

Normal Work Hours - Hours where the majority of shift work takes place - i.e., between the hours of 8:00 AM and 5:00 PM, Monday through Friday excluding County Holidays.”

Add the following:

“OSHPD/HCAi Normal Working Hours – Work performed during Normal Working Hours between the hours of 8:00 AM and 5:00 PM, Monday through Friday excluding County Holidays within a Hospital and/or In-Patient Medical Facility.

OSHPD/HCAi Other than Normal Working Hours – Work performed during Other than Normal Working Hours where the majority of shift work takes place outside the hours of Normal Working Hours, 5:00 PM to 8:00 AM, Saturdays, Sundays and County Holidays within a Hospital and/or In-Patient Medical Facility.”

Replace the following:

“Other than Normal Working Hours - Hours where the majority of shift work takes place outside the hours of Normal Working Hours, 5:00 PM to 8:00 AM, Saturdays, Sundays and County Holidays.”

Add the following:

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

Replace the following:

“Project - The actual construction job consisting of collective improvements that is part of any individual Job Order, or a series of related Job Orders.

Supplemental Job Order (SJO) - A secondary written agreement entered into after the issuance of the Job Order that alters or amends the Job Order. Changes in the Work requested are accomplished by the issuance of a Supplemental Job Order. Changes such

as extensions of time, assessment of liquidated damages, adjustment for net credits, and minor additive changes to the Detailed Scope of Work that may be accomplished by issuance of a Supplemental Job Order to the original Job Order.

Technical Specifications - A body of documents, consisting of Volumes 1-3, containing instructions and requirements that complement the Detailed Scope of Work for individual Job Orders and describe the manner of performing the Work or the quantities, qualities, standards of workmanship, and types of materials to be furnished.

Unit Price - The price published in the Construction Task Catalog® for a specific repair, refurbishing, remodeling, or a specific construction or construction related work task. The Unit Prices are fixed for the duration of the Contract. Each Unit Price includes the labor, equipment, material, and all other costs to accomplish the specific Pre-priced Task.

Work – The performance by the Contractor of all his/her responsibilities and obligations set forth in the Contract Documents for completion of individual Job Orders. Work shall include, but not be limited to, the furnishing and installing of all labor, use of tools, materials, articles, supplies, and equipment as specified, designated, or required by the Contract.”

All defined terms are to be capitalized throughout the documents. Job Order Completion Time and Job Order Price replace Job Order Time and Job Order Amount. Maximum Contract Value and Minimum Contract Value replace Maximum Contract Amount and Minimum Contract Amount.

2. SECTION 2. Governing Laws & Regulations.

Add the following:

D. Federally Required Contract Provisions

1. **Remedies.** In the event Contractor breaches any term or provision of this Contract, County has the right to pursue all available remedies at law or equity, including recovery of damages, specific performance of this Contract, and termination of this Contract. Except as expressly provided elsewhere in this Contract, each party's rights and remedies under this Contract are cumulative and in addition to, not exclusive of or in substitution for, any rights or remedies otherwise available to that party.
2. **Termination for Cause and Convenience.** If County terminates this Contract for convenience, County shall pay Contractor for services provided prior to the date of termination. If County terminates this Contract due to Contractor's breach, County may settle the Contract by negotiated agreement, pursuant to Section 34 (Disputes) of Division F, or a combination of these methods.
3. **Contract Work Hours and Safety Standards Act.**
 1. *Overtime requirements.* No contractor or subcontractor contracting for any

part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such work week.

2. *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
3. *Withholding for unpaid wages and liquidated damages.* The Federal Emergency Management Agency or County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
4. *Subcontracts.* The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

4. Rights to Inventions.

- a. *General.* If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under this Contract, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the County and Contractor agree to take actions necessary to provide immediate notice and a detailed report to Federal Emergency Management Agency (FEMA).

Unless the Federal Government later makes a contrary determination in writing, irrespective of Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education,

individual), the County and Contractor agree to take the necessary actions to provide, through FEMA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by

b. Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 CFR, Part 401.

c. The Contractor agrees to include paragraphs (a) and (b) above in each third party subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FEMA.

5. Clean Air Act; Federal Water Pollution Control Act.

a. The Contractor shall comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq., and the Federal Water Pollution Control Act, as amended, 33 U.S.C. Sections 1251 et seq.

b. The Contractor shall report each violation of these requirements to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the California Governor's Office of Emergency Services, Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.

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

6. Debarment and Suspension Clause. The Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Contractor is required to verify that none of the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

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

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

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

7. Byrd Anti-Lobbying Amendment, 31 U.S.C § 1352 (as amended). Contractors who apply or bid for an award of \$100,000 or more shall file the required certification attached hereto as Appendix A (44 C.F.R. PART 18-CERTIFICATION REGARDING LOBBYING). Each tier certifies to the tier

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

8. Procurement of Recovered Materials. In the performance of this Contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designed items unless the product cannot be acquired –

1. Competitively within a timeframe providing for compliance with the Contract performance schedule;
2. Meeting contract performance requirements; or
3. At a reasonable price.

Information about this requirement, along with the list of EPA-designated items, is available at EPS's Comprehensive Procurement Guidelines website,

The Contractor shall comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

9. Access to Records. The following access to records requirements apply to this Contract:

1. The Contractor agrees to provide the County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to the Contract for the purposes of making audits, examinations, excerpts, and transcriptions.
2. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
3. The Contractor agrees to provide the FEMA Administrator or his or her authorized representatives access to construction or other work sites pertaining to the work being completed under the Contract.
4. In compliance with the Disaster Recovery Act of 2018, the County and the Contractor acknowledge and agree that no language in this Contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

10. **Contract Changes.** This Contract may be modified or amended only by a written document executed by Contractor and County, provided, that the payment provisions and the Service Plan may be amended by a written administrative amendment executed by Contractor and the County Administrator (or designee), subject to any required state or federal approval, and provided further that such administrative amendment may not increase the payment limit of this Contract or reduce the services Contractor is obligated to provide pursuant to this Contract.
11. **Department of Homeland Security Seal, Logo, Flags.** The Contractor may not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
12. **Compliance with Federal Law, Regulations, and Executive Orders.** This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the Contract. The Contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.
13. **No Obligation by Federal Government.** The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other party pertaining to any matter resulting from the Contract.
14. **Program Fraud and False or Fraudulent Statement or Related Acts.** The Contractor acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.

3. SECTION 7. Time of Work and Damages.

Replace the following:

“A. The County will designate the starting day of an individual Job Order on which the Contractor shall immediately begin and thereafter diligently prosecute the Work to completion. The Contractor obligates himself to complete the Work on or before the date, or within the number of calendar days, set forth by the Job Order Completion Time, subject only to such adjustment of time as may be set forth in Division F or pursuant to Section 22.”

“D. Written requests for Job Order time extensions, along with adequate justification, shall be submitted to the County not later than ten (10) calendar days following the delay.”

4. SECTION 11. Scope of Work and Procedures for Ordering Work, Pre Job Order Meeting.

Replace the following:

“C. Description of Work:

1. Work shall be performed only as authorized by Job Orders issued in accordance with the procedures for ordering work. The Contractor shall furnish to the County the construction services and supplies specified in the Job Orders in a total amount not to exceed the Maximum Contract Value. The County will give the contractor the opportunity to perform at least the Minimum Contract Value.

“D. Procedure for Ordering Work:

1. As the need exists for performance by the Contractor on work to be completed under the terms of this Contract, the County will notify the Contractor of a Project by scheduling a Joint Scope Meeting and issuing a Notice of Joint Scope Meeting.
2. The Contractor shall respond by obtaining from the County the scope of the requirement and collect any documents, visiting the proposed site with the County staff, and participating in a Joint Scope Meeting which will at a minimum include establishment of the following:
 - a) Job Order number and title
 - b) Existing site conditions including the presence of hazardous materials
 - c) Methods and alternatives for accomplishing work including value engineering
 - d) Definition and refinement of requirements
 - e) General Scope of Work
 - f) Requirements for design drawings, sketches, submittals, technical data, catalog cuts, samples, shop drawings, etc.
 - g) Tentative construction schedule (bar chart or critical path method schedule)
 - h) Preliminary quantity estimates
 - i) Staging areas, site access and protocol for admission
 - j) Special conditions regarding unique facility operations and hours of operation
 - k) Safety requirements
 - l) Proposal due date
 - m) Mandatory Subcontracting Minimum
 - n) Outreach Program or SBE Program requirements
 - o) Liquidated damages
3. Upon completion of the joint scoping process, the County will issue a Request for Proposal and a draft Detailed Scope of Work, which will require the Contractor to prepare a Job Order Proposal for the work under consideration. When an acceptable Detailed Scope of Work has been prepared, the County will issue a Request for Proposal that will require the Contractor to prepare a Job Order Proposal. The Detailed Scope of Work, unless modified by both the Contractor and the County, will be the basis on which the Contractor will develop his/her Job Order Proposal and the County will evaluate the Job Order Proposal. The

Contractor does not have the right to refuse to perform any task or any work in connection with a particular Project.”

Add the following:

- “4. The County may award an individual Job Order to any selected Contractor. Selection of the Contractor and award of the Job Order will be in compliance with established County procedures and based on one or more of the following criteria:
- a) Rotational selection among all Contractors, unless otherwise determined by the County.
 - b) Evaluation of past and current performance on Job Orders of a similar nature and type of work, project size, construction management challenges, schedule performance, design management requirements, etc.
 - c) Balancing of work load (Job Order dollar volume and construction backlog) among Contractors.
 - d) Management of Job Order dollar volume within bonding limitations of the Contractor.
 - e) Price, as it relates to the County’s independent cost estimate.
 - f) Contractor’s responsiveness to the County on Job Orders.
- Other appropriate criteria as deemed in the best interest of the County.”

Replace the following:

“E. Proposal Development:

1. The Contractor will prepare Job Order Proposals in accordance with the following:
 - a) **Pre-priced Tasks:** For Pre-priced Tasks, the Contractor shall identify the task and quantities required from the CTC. The Unit Price set forth in the CTC shall serve as the base price for the purpose of the operation of this provision. The Contractor’s Job Order Proposal shall include support documentation to indicate that adequate engineering and planning for the requirement has been done and that the tasks proposed are reasonable for the work to be performed. Documentation to be submitted with the Job Order Proposal shall include, but not be limited to, design drawings, calculations, catalog cuts, specifications, and architectural renderings, subcontractor list, required Outreach Program and construction schedule.
 - b) **Non Pre-priced Tasks:** Non Pre-priced Tasks, if any, shall be separately identified and submitted in the Job Order Proposal. A Non Pre-priced Task is a Task that is not set forth in the CTC. Information submitted in support of Non Pre-priced Tasks shall include, but not be limited to, the following:
 - 1) Complete specifications and technical data, including task content, catalog cuts, specifications, support drawings, job cost data, quality control and inspection requirements.

- 2) Work schedule.
- 3) Costing data shall include a cost analysis report, establishing the basis for selecting the approach proposed for accomplishment of the requirements. Unless otherwise directed by the County and if the Contractor will perform the work with its own forces, costing data will be submitted demonstrating that the Contractor sought and received three quotes and to the extent possible used Pre-priced Tasks for labor and equipment from the CTC. The Contractor shall provide an installed Unit Price (or demolition price if appropriate), which shall include all costs required to accomplish the Non Pre-priced Task. If the work is to be subcontracted, the Contractor must submit three independent quotes from subcontractors. The Contractor shall not submit a quote or bid from any supplier or subcontractor that the Contractor is not prepared to use. The County may require additional quotes and bids if the suppliers or subcontractors are not acceptable or if the prices are not reasonable.
- 4) The Contractor's Job Order Proposal shall include support documentation to indicate that adequate engineering and planning for the requirement has been done, and that the tasks proposed are reasonable for the work to be performed. Documentation to be submitted with the proposal shall include, but not be limited to:
 - a) Job Order Price Proposal
 - b) Other requested Documents”

Replace the following:

- 5) Contractor's Job Order Proposal shall be submitted by the date indicated on the RFP. All incomplete Job Order Proposals shall be rejected. The Job Order Price shall be the value of the approved Job Order Price Proposal. The value of the Job Order Price Proposal shall be calculated by summing the total of the calculations for each Pre-priced Tasks (Unit Price x quantity x Adjustment Factor) plus the value of all Non Pre-priced Tasks. The time allowed for preparation of the Contractor's Job Order Proposal will depend on the complexity and urgency of the Job Order. On complex Job Orders, such as Job Orders requiring engineering/architectural drawings and approvals and permits, allowance will be made to provide adequate time for preparation and submittal of the necessary documents and the proposal and so reflected in the proposal due date entered on the RFP. In emergency situations and minor maintenance and repair Job Orders requiring immediate completion, the Job Order Proposal may be required quickly and the due date will be so indicated on the RFP or the Contractor may be directed to begin work immediately with the paperwork to follow.”
- 6) Three calendar days after the submission of the Job Order Proposal, the requested outreach program documentation will be due.

Add the following:

- 7) The Contractor shall provide incidental engineering and architectural services required in connection with a particular Job Order including drawings and information required for filing. All costs are included in the contractor's Adjustment Factor.
- 8) Contractor shall make the necessary arrangements for and obtain all filings and permits required for the Work, including the preparation of all drawings, sketches, calculations and other documents and information that may be required therefor. If the Contractor is required to pay an application fee for filing a project, a fee to obtain a building permit, or any other permit fee to the City, State or some other governmental or regulatory agency, then the amount of such fee paid by the Contractor for which a receipt is obtained shall be treated as a Reimbursable Task to be paid without mark-up. The cost of expediting services or equipment use fees are not reimbursable."
- 9) The Contractor may choose the means and methods of construction; subject however, to the County's right to reject any means and methods proposed by the Contractor that will constitute or create a hazard to the work, or to persons or property, will not produce finished Work in accordance with the terms of the Contract, or unnecessarily increases the price of the Job Order when alternative means and methods are available."

F. Review Of Job Order Proposal And Issuance Of Job Order:

Replace the following:

- "3. The County reserves the right to reject a Job Order Proposal for any reason. The County also reserves the right not to issue a Job Order if that is determined to be in the County's best interests to do so or if the proposed cost exceeds the County's estimate. In these instances, the Contractor has no claim to recoup expenses incurred in preparing the Job Order Proposal or any other expenses. The County may pursue the performance of any work by other means. The Contractor shall not recover any costs arising out of or related to the development of the Job Order including but not limited to the costs to attend the Joint Scope Meeting, review the Detailed Scope of Work, prepare a Job Order Proposal (including incidental architectural and engineering services), subcontractor costs, and the costs to review the Job Order Proposal with the County.
- "4. By submitting a signed Job Order Proposal to the County, the Contractor agrees to accomplish the Detailed Scope of Work in accordance with the Request for Proposal for the lump sum price submitted. It is the Contractor's responsibility to include the necessary Pre-priced and Non Pre-priced tasks and quantities in the Job Order Proposal and apply the appropriate Adjustment Factor(s) prior to

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

- “5. Each Job Order issued to the Contractor shall reference the Detailed Scope of Work and set forth the Job Order Price and the Job Order Completion Time which shall dictate the obligations of the Contractor. The Job Order Proposal does not govern the obligations of the Contractor or define the Scope of Work. All clauses of this Contract shall be applicable to each Job Order. Job Orders will be written on an appropriate form. The Job Order, signed by a duly authorized agent, constitutes the County's acceptance of the Contractor's price to complete the Detailed Scope of Work and compliance with the County's Outreach Program or SBE Program requirements. A signed copy will be provided to the Contractor.
- “6. In the event that immediate emergency response is necessary, the Contractor shall be required to conform to alternative procedures as established by the County. This alternative procedure may be more burdensome to the Contractor than the procedure described in this section. The Contractor shall begin work as directed notwithstanding the absence of a fully developed Request for Proposal, Detailed Scope of Work, or Job Order. The Contractor shall be compensated for such work as if the work had been ordered under the standard procedures.”

G. Computer And Communications Equipment Requirements:

Replace the following:

- “1. The Contractor must maintain in an operational condition, a computer system capable of operating the JOC Management System supplied by the County. The Contractor may include the cost of the system in its Adjustment Factor. The computer system must consist of at a minimum:
- “a. Computer system capable of running high speed internet and propriety eGordian® JOC Software.
 - b. High Speed Internet Connection with individual email accounts for each of the Contractor’s Project Managers.
- “2. Job Order Contracting Software
See Attachment 1 for Job Order Contracting System License and Fee Agreement

The Owner selected The Gordian Group’s (Gordian) Job Order Contracting (JOC) Solution for their JOC program. The Gordian JOC Solution includes Gordian’s Proprietary JOC Software and JOC applications, construction cost data, and Construction Task Catalog which shall be used by the Contractor solely for the purpose of fulfilling its obligations under this Contract, including the preparation and submission of Job Order Proposals, Price Proposals, subcontractor lists, and other requirements specified by the Owner. The Contractor shall be required to execute Gordian’s JOC System License and Fee Agreement and pay a 1% JOC

System License Fee to obtain access to the Gordian JOC Solution. The JOC System License Fee applies to all Job Orders issued to the Contractor under the terms of this Contract. The Contractor shall include the JOC System License Fee in the Adjustment Factors.

Gordian hereby grants to the Contractor, and the Contractor hereby accepts from Gordian for the term of this Contract or Gordian's Contract with the County, whichever is shorter, a non-exclusive right, privilege, and license to Gordian's proprietary JOC System and related proprietary materials (collectively referred to as "Proprietary Information") to be used for the sole purpose of executing Contractor's responsibilities to the County under this Contract. The Contractor hereby agrees that Proprietary Information shall include, but is not limited to, Gordian's JOC Applications and support documentation, Construction Task Catalog[®], training materials and other Gordian provided proprietary materials. In the event this Contract expires or terminates as provided herein, or Gordian's Contract with the County expires or terminates, or the Contractor fails to pay the JOC System License Fee specified in this Contract, this JOC System License shall terminate and the Contractor shall return all Proprietary Information in its possession to Gordian.

In consideration for a non-exclusive, non-transferable, license to the Gordian JOC Solution, the Contractor shall pay Gordian a license fee ("Contractor License Fee") equal to one percent (1%) of the value of each Job Order, Purchase Order or other similar purchasing document ("Purchase Order") issued to the Contractor by the County. The Contractor License Fee shall be included in the Contractor's overhead costs, shall not be included as an additional line item cost in Job Order Price Proposals, and shall be payable to Gordian within ten (10) days of Contractor's receipt of each Purchase Order issued to the Contractor by the County. Gordian is hereby declared to be an intended third-party beneficiary of this Agreement. In the event any court action is brought to enforce payment of the Contractor License Fee by any party or third-party beneficiary of this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and collection costs. The Contractor shall remit the Contractor License Fees as follows:

Payments Made Payable to:	The Gordian Group, Inc.
Mail Checks to:	P.O. Box 751959
	Charlotte, NC 28275-1959

Gordian may terminate this License Agreement in the event of: (1) any breach of a material term of this Agreement by the Contractor which is not remedied within ten (10) days after written notice to the breaching party; or (2) the other party's making an assignment for the benefit of its creditors, or the filing by or against such party of a petition under any bankruptcy or insolvency law, which is not discharged within thirty (30) days of such filing.

The Contractor acknowledges that disclosure of Proprietary Information will result in irreparable harm to Gordian for which monetary damages would be an

inadequate remedy and agrees that no such disclosure shall be made to anyone without first receiving the written consent of Gordian. The Contractor further acknowledges and agrees to respect the copyrights, registrations, trade secrets, and other proprietary rights of Gordian in the Proprietary Information during and after the term of this Contract and shall at all times maintain complete confidentiality with regard to the Proprietary Information provided to the Contractor.

In the event of a conflict in terms and conditions between this JOC System License and any other terms and conditions of this Contract or any Job Order, Purchase Order or similar purchasing document issued to the Contractor by the County, this JOC System License shall take precedence.”

5. SECTION 12. Conduct of Work.

Replace the following:

“C. The Contractor shall personally superintend the Work and shall maintain a competent superintendent or foreman at all times until the Work is accepted by the County. This person shall be acceptable to the County and shall have a cell phone at which he or she can be reached at all times. This superintendent shall be empowered to act in all matters pertaining to the Work. The Contractor shall also have at all times an Office Manager and a Superintendent assigned to this Contract. Additional staff will be provided depending on the volume of work. For each Job Order issued, the Contractor shall identify the Superintendent responsible for that Job Order. The Superintendent shall participate in County requested job meetings at the project side at times requested by the County during Normal Working Hours. The Superintendent shall be reachable 24 hours a day, seven days a week. If the named Superintendent is not available because of illness or vacation or the like, the Contractor shall notify the County of a substitute Superintendent. At all times, the Contractor shall provide at least one Superintendent for every four Job Orders. Whenever, in the sole discretion of the County, the Contractor is not providing a sufficient level of supervision, the County may direct the Contractor to increase the level of supervision for any or all projects, including but not limited to the right to direct the Contractor to assign a full time, dedicated Superintendent for any project; submit daily management, inspection, activity, and planning reports; substitute subcontractors; submit daily photographs of the work in place and the work areas prepared for the next day’s work; and develop a site specific quality control program, all at no cost to the County. In the event the County’s personnel are required to provide direction or supervision of the work in the field because the Contractor has not provided sufficient supervision, the Contractor shall reimburse the County \$125 per hour for such effort.”

6. SECTION 16. Interpretation of Contract Requirements.

Replace the following:

“B. Conflicts in the Contract Documents: In case of discrepancies or conflicts in information or requirements within the Contract Documents or between different parts of the Contract Documents, the following order of precedence shall apply with item number one (1) representing the highest precedence:

1. Agreement
2. Addenda (later takes precedence over earlier)
3. Job Orders (Including Detailed Scopes of Work and Requests for Proposals)
4. Project Manual
5. The Construction Task Catalog®
6. Technical Specifications

7. SECTION 22. Changes in Work.

Add the following:

- “D. The County reserves the right to cancel any Job Order in its entirety. The County will issue a Cancellation Notice when canceling any Job Order.
- “E. Should any Job Order work item be deleted, the Job Order Price shall be reduced by the amount in the accepted Job Order Price Proposal for that work item. As necessary, the amount shall be calculated by using the appropriate pre-set Unit Price associated with the item in the CTC, multiplied by the quantity to be deleted, multiplied by the appropriate Adjustment Factor. The result is that a credit for Tasks that have been deleted from the Detailed Scope of Work will be given at 100% of the value at which they were included in the original Job Order Price Proposal.
- “F. If the County issues written notice of cancellation of the Work after the Work commences or after Contractor has ordered acceptable materials that cannot be cancelled, payment will be made to Contractor for the direct costs of the Work actually performed.
- “G. If part of such Work becomes unnecessary due to actual site conditions, payment will be made to Contractor for only the direct costs of such Work actually performed.
- “H. Contractor will not be compensated for costs incurred after receipt of the County’s Written notice cancelling or deleting the Work item or Job Order.

- I. Materials ordered by Contractor prior to the County's issuance of a notice of deletion or cancellation, and paid for by the County, shall become the property of the County and the County will pay for the actual cost of any further handling of such material. If the material is returnable to the vendor, and if the County so directs, the material shall be returned and Contractor will be paid only for the actual charges made by the vendor for returning the material including restocking charges.”

8. SECTION 28. Progress Payments, Final Payments and Waiver to Claims.

Add the following:

“The County will make one payment for all Job Orders that have a Job Order Completion Time of 45 days or less, or a Job Order Price of \$25,000 or less. For all other Job Orders, the County may make partial, monthly payments based on a percentage of the work completed.

Before submitting an Application for Payment (Final or Partial) the Contractor shall reach an agreement with the Project Manager concerning the percentage complete of the Detailed Scope of Work and the dollar value for which the Application for Payment may be submitted.”

10. SECTION 34 “Disputes”

Add the following:

“Contractor and Public Agency shall make good faith attempts to resolve any and all disputes that may from time to time arise during the performance of the work covered by this contract. If the Contractor considers any work demanded of him to be outside the requirements of the contract, or if he considers any instruction, meaning, requirement, ruling, or decision of the Public Agency or Architect to be unauthorized, he shall within seven calendar days after such demand is made, or instruction is given, file a written protest with the Public Agency stating clearly and in detail his objections, and reasons therefore. The Contractor shall promptly comply with the work demanded of him even though a written protest has been filed. If a written protest is not issued within seven calendar days, the Contractor shall waive his right of further claims on the specific issue.

The County Capital Projects Division Manager will review the Contractor’s written protest and provide a decision. If after receiving the decision the Contractor still considers the work demanded of him to be outside the requirements of the contract, he shall, within seven calendar days after receiving the County Capital Projects Division Manager, notify the Public Agency in writing that a claim will be filed. Within 30 calendar days of receiving the County Capital Projects Division Manager’s decision, the Contractor shall

submit his claim and all arguments, justification, cost or estimates, schedule analysis, and detailed documentation supporting his position.

If notice is not given within the seven calendar days referenced above, the Contractor shall be deemed to have concurred with the County Capital Projects Division Manager's decision and no further protest or claim will be considered with respect to that issue. No claim, arguments, justification, cost estimates, schedule analysis or documentation in support of the Contractor's position will be accepted after the 30 days referenced above."

END OF SUPPLEMENTARY CONDITIONS