

COUNTY OF IMPERIAL  
DEPARTMENT OF PUBLIC WORKS

NOTICE TO BIDDERS  
SPECIAL PROVISIONS  
PROPOSAL AND BID BOOK  
FOR

ORCHARD ROAD IMPROVEMENTS FROM STATE ROUTE 7 TO ALAMO  
RIVER (CITY OF HOLTVILLE LIMITS); COUNTY PROJECT NO. 6676



Notice to bidders and Special Provision dated: **June 7, 2022**

Project Plans approved: **May 16, 2022**

Standard Specifications: **2018**

Standard Plans Dated: **2018**

**Bid Opening Date: July 22, 2022**



For use in connection with the 2018 edition of the California Department of Transportation Standard Plans and Standard Specifications, and "Green Book Standard Specifications for Public Works Construction" latest edition as it relates to all asphalt concrete, General Prevailing Wage Rates and Labor Surcharge and Equipment Rental Rates of the State of California, Department of Transportation and State of California Department of Industrial Relations Wage Determinations.

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## **SPECIAL NOTICE NO. 1**

The bidder's attention is directed to the section entitled, "Subcontractor List" in Section 2 and the section entitled, "Control of Work" in Section 5 of the Special Provisions regarding the requirement that proposed subcontractors be listed in the bidder's proposal. Instead of listing only subcontractors for signal and lighting work as in the past, all subcontractors are now to be listed in the bid proposal for items of work or portions thereof to be subcontracted in excess of one-half of one percent of the total bid or \$10,000, whichever is greater.

In the case where a bidder claims an inadvertent clerical error in listing subcontractors, a notice of the claim must be submitted to the Director of Public Works in writing within two working days after the time of the bid opening, and copies sent to the subcontractors involved. See Sections 2 and 3 for contractor's registration requirements.

See Section 2 for submittal requirements for DBE quotes, DVBE quotes, and Non-Small Business Subcontractor Preference.

The schedules for the submittal of DBE forms have been revised. See Section 2-1.33 for the submittal schedules.

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## **SPECIAL NOTICE NO. 2**

- Temporary traffic control requirements have been revised. The bidder's attention is directed to sections 7-1.03, 7-1.04, and 12. Sections include method of payment and requirements to furnish, install, and maintain temporary traffic control.
- Attention is directed to Division I entitled, "General Provisions," found under Special, which lists amendments to the Standard Specifications, dated May 2018, regarding plain language specifications.
- The "Proposal and Contract" book has been retitled and is now the "Bid" book.
- The "Notice to Contractors" has been retitled and is now the "Notice to Bidders."
- Construction Contract Notification Requirement to the Office of Federal Contract Compliance Programs. Refer to Section 3 entitled, "Contract Award and Execution," found under Special Provisions.

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## **SPECIAL NOTICE NO. 3**

Pursuant to the requirements of Senate Bill 854 and California Labor Code section 1725.5, all contractors and subcontractors that wish to engage in public work through a public works contract must first register with the Department of Industrial Relations and pay all applicable fees.

Beginning March 1, 2015, no contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations, pursuant to Labor Code section 1725.5 (with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)).

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

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

For more information concerning Senate Bill 854 compliance, please visit:  
<http://www.dir.ca.gov/Public-Works/SB854.html>.

## **SPECIAL NOTICE NO. 3 (continued)**

### **NEW PUBLIC WORKS CONTRACTOR REGISTRATION LAW [SB 854] FACT SHEET**

SB 854, a budget trailer bill that was signed into law on June 20, 2014, and became effective immediately, made several significant changes to laws pertaining to the administration and enforcement of prevailing wage requirements by the Department of Industrial Relations (DIR). Among other things, SB 854 established a new public works contractor registration program to replace prior Compliance Monitoring Unit (CMU) and Labor Compliance Program (LCP) requirements for bond-funded and other specified public works projects. The fees collected through this new program will be used to fund all of DIR's public works activities, including compliance monitoring and enforcement, the determination of prevailing wage rates, public works coverage determinations, and hearing enforcement appeals.

#### Essentials of public works contractor registration program:

- Contractors will be subject to a registration and annual renewal fee that has been set initially at \$300. The fee is non-refundable and applies to all contractors and subcontractors who intend to bid or perform work on public works projects (as defined under the Labor Code).
- Contractors will apply and pay the fee online and must meet minimum qualifications to be registered as eligible to bid and work on public works projects:
  - Must have workers' compensation coverage for any employees and only use subcontractors who are registered public works contractors.
  - Must have Contractors State License Board license if applicable to trade.
  - Must have no delinquent unpaid wage or penalty assessments owed to any employee or enforcement agency.
  - Must not be under federal or state debarment.
  - Must not be in prior violation of this registration requirement once it becomes effective. However, for the first violation in a 12 month period, a contractor may still qualify for registration by paying an additional penalty.
- The registration fee is not related to any project. It is more like a license that enables the registrant to bid on and perform public works.

- DIR will post a list of registered contractors and subcontractors on its website so that awarding bodies and contractors will be able to comply with requirements to only use registered contractors and subcontractors.
- Various protections are built in so that
  - A contractor won't be in violation for working on a private job that is later determined to be public work;
  - The inadvertent listing of an unregistered subcontractor on a bid won't necessarily invalidate that bid;
  - A contract with an unregistered contractor or subcontractor is subject to cancellation but is not void as to past work;
  - An unregistered contractor or subcontractor can be replaced with one who is registered;
  - A contractor whose registration lapses will have a 90 day grace period within which to pay a late fee and renew.
- Registrations will begin after July 1, 2014, once the registration system is ready to go online. The preferred method of payment will be by credit card.
- The requirement to list only registered contractors and subcontractors on bids becomes effective on March 1, 2015. The requirement to only use registered contractors and subcontractors on public works projects applies to all projects awarded on or after April 1, 2015.

Essentials of Public Works Enforcement Fund:

All contractor registration fees will go into the State Public Works Enforcement Fund and be used to fund the following items --

- administration of contractor registration requirement
- all DIR costs for administering and enforcing public works laws
- Labor Commissioner's enforcement of other Labor Code violations on monitored public works projects.

DIR will no longer charge awarding bodies for prevailing wage compliance monitoring and enforcement by the CMU. (*Note: DIR will continue to bill and collect fees from awarding agencies for CMU services provided through June 20, 2014.*)

Related changes in DIR's administration and enforcement of public works requirements:

- Requirements to use CMU or specified alternative (labor compliance program or project labor agreement) for state bond-funded and other specified projects have been eliminated and replaced by requirements that apply to all public works projects (as defined under the Labor Code).
- Awarding bodies are *now* required to submit PWC-100 (contract award notice) for all public works projects. (*This requirement previously applied to about 90% of all projects.*)
- Contractors and subcontractors on *all* public works projects will be required to submit certified payroll records (CPRs) to the Labor Commissioner unless excused from this requirement.
  - This requirement will be phased in as follows:
    - Applies immediately to public works projects that have already been under CMU monitoring, *i.e.* contractors on ongoing projects that have been submitting CPRs to the CMU will continue doing so
    - Will apply to any new projects awarded on or after April 1, 2015
    - May apply to other projects as determined by Labor Commissioner
    - Will apply to all public works projects, new or ongoing, on and after January 1, 2016
  - The Labor Commissioner may make exception to this requirement for
    - Projects covered by qualifying project labor agreement
    - Projects undertaken by one of four remaining awarding bodies with legacy LCPs (Caltrans, City of Los Angeles, County of Sacramento, and Los Angeles Unified School District), so long as those LCPs remain approved by DIR
  - CPRs will be furnished online (as is done currently for CMU). DIR intends to continue making improvements to this process, including creating a means for general contractors to have online access to the CPRs submitted by their subcontractors.
- Requirements for awarding bodies to adopt and enforce a DIR-approved LCP are now limited to: (1) public works projects awarded prior to January 1, 2012 that were under a preexisting LCP requirement; and (2) projects funded in whole or in part by Proposition 84.

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## **SPECIAL NOTICE NO. 4**

- See sections 2 and 3 for contractors' registration requirements.
  
- Add following note to the General Notes of the Project Plans: “The contractor shall be responsible for any survey monuments, corner accessories and/or benchmarks within the limits of the wok. In accordance with the Professional Land Surveyor’s Act (Chapter 15 of the California Business and Professions Code), such objects within the limits of work that may be disturbed or destroyed by construction shall be referenced by a person authorized to practice Land Surveying and a Corner Record (or Record of Survey) showing said references shall be filed with the County Surveyor prior to construction. Any monument, corner accessory, or benchmark that is disturbed or destroyed by construction shall be replaced with appropriate monumentation by a person authorized to practice Land Surveying and a Corner Record (or Record of Survey) shall be filed prior to project completion. Form MPR-01 and Form MPR-02 are required for all Imperial County projects.”
  
- For work plan for local material from (1) a noncommercial source or (2) a source not regulated under California jurisdiction, see section 6-1.03B(1).

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ORCHARD ROAD IMPROVEMENTS FROM STATE ROUTE 7 TO ALAMO RIVER (CITY  
OF HOLTVILLE LIMITS)  
County of Imperial Project No. 6676

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# **BIDDING INFORMATION**

## **COUNTY OF IMPERIAL NOTICE TO BIDDERS**

Sealed proposals will be received at the office of the Clerk of the Board of Supervisors at the County Administration Center located at 940 Main Street in El Centro, California 92243, until **2:00 p.m. on July 22, 2022** at which time they will be publicly opened and read at the above stated time and place, for construction in accordance with the specifications therefore, to which special reference is made, for the following project:

### **ORCHARD ROAD IMPROVEMENTS FROM STATE ROUTE 7 TO ALAMO RIVER (CITY OF HOLTVILLE LIMITS)**

County of Imperial Project No. 6676

The contractor shall possess a California contractor's license, Class A, at the time this contract is awarded. In all contracts subject to this part where state or federal funds are involved, no bid submitted shall be invalidated by the failure of the bidder to be licensed in accordance with the laws of the State of California. However, at the time the contract is awarded, the contractor shall be properly licensed in accordance with the laws of the State of California. The first payment for work or material under any contract shall not be made unless and until the Registrar of Contractors verifies to the agency that the records of the Contractors' State License Board indicate that the contractor was properly licensed at the time other contract was awarded. Any bidder or contractor not so licensed shall be subject to all legal penalties imposed by law, including, but not limited to, any appropriate disciplinary action by the Contractors' State License Board.

Bids are required for the entire work described herein. The contractor does not have the option to submit a bid proposal on only a portion of the following described work. The contractor must respond with a bid proposal for Bid.

Recommendation of selection to award Base Bid will be based on cost and budget availability at time of award. For purposes of determination of the lowest bid, Public Contract Code Section 20103.8 (a) will be used.

Technical questions or clarifications must be in writing and should be directed to the Imperial County Department of Public Works, Attention to Robert Ureña III, Civil Engineer Assistant II, at 155 S. 11th Street, El Centro, CA 92243 or emailed to [roberturena@co.imperial.ca.us](mailto:roberturena@co.imperial.ca.us) before **July 12, 2022**. No questions will be responded to after this day.

Questions about alleged patent ambiguity of the plans, specifications, or estimate must be submitted communicated as a bidder inquiry before bid opening. Any such inquiries or questions, submitted after bid opening, will not be considered as bid protests.

The Engineer's Quantity Estimate for this project follows:

## BID ITEM LIST

Item No.	Item Code	Item Description	Unit of Measure	Estimated Quantity
1	999990	MOBILIZATION	LS	1
2	120100 120090	TEMPORARY TRAFFIC CONTROL	LS	1
3	130100 130200 130640	WATER POLLUTION CONTROL	LS	1
4	398200	HEADER CUT	SF	10,000
5	398200	COLD PLANE ASPHALT CONCRETE PAVEMENT	SF	285,014
6	374207	CRACK TREATMENTS	SF	295,014
7	390135	1 INCH THICK LEVELING COURSE WITH 1/2 INCH HMA TYPE A AND TACK COAT	SF	295,014
8	393004	INSTALL A TENSAR GLASPAVE 50 PAVING MAT OR APPROVED EQUAL AND TACK COAT	SF	295,014
9	390132	3 INCH THICK A.C. OVERLAY WITH 3/4" HMA TYPE A	SF	295,014
10	260202	4 INCH THICK SHOULDER BACKING WITH CLASS II AGGREGATE BASE.	SF	111,405
11	260202	EXTEND SHOULDER BACKING WITH 4 INCH THICK CLASS II AGGREGATE BASE AT EXISTING ROAD ACCESS (DRIVEWAYS) TO R/W (37 SQUARE YARDS AVERAGE EACH DRIVEWAY)	EACH	36
12	070030	LEAD COMPLIANCE PLAN	LS	1
13	820840A	SIGNING, STRIPING AND PAVEMENT MARKINGS	LS	1
14		SURVEYING AND CONSTRUCTION STAKING	LS	1
15		MONUMENT PRESERVATION / PERPETUATION	LS	1
16		TIME AND MATERIAL ALLOCATION	LS	1

Plans, specifications, and proposal forms (bid documents) for bidding this project can be obtained at the office of the Imperial County Department of Public Works; 155 South 11th Street, El Centro, CA 92243. A \$100.00 fee is required (no refund will be made). Mail service is available at an additional cost of \$15.00 per set of documents. Make checks payable to the County of Imperial Department of Public Works.

Alternately, the bid documents can be found on Imperial County Public Works website under "Projects Out to Bid" at [www.co.imperial.ca.us/PublicWorks/Index.htm](http://www.co.imperial.ca.us/PublicWorks/Index.htm).

Only those firms who have purchased the bid documents and the required construction trade journals will be directly provided any addendums that may be issued for this project prior to the bid opening date. Every attempt will be made to post addendums on the above mentioned Imperial County Public Works website as well. It is the bidder's ultimate responsibility to verify that he or she has obtained ALL the addendums for each project in case bidder did not purchase the bid documents directly from the Imperial County Public Works Department.

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

Bid security shall accompany the bid in the form of a certified or cashier's check, or a Bid Bond for ten (10) percent of the maximum bid amount being proposed.

The successful bidder shall furnish a payment bond and a performance bond, both equal to 100% of the contract amount. The submission of a labor and materials bond (payment bond) is required on projects in excess of \$25,000.00.

Bidders are advised that, they may substitute securities in place retained funds withheld by County. Cal. Pub. Cont. Code Section 22300. Alternatively, an escrow agreement, in the form prescribed by the code, may be used by the bidder.

The County of Imperial hereby affirms and notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, sex, color, or national origin in consideration for an award.

Federal, State and local regulations and reporting requirements applicable to the proposed work must be complied with for this project.

No work shall be performed by contractor or subcontractors who are ineligible pursuant to California Labor Code 1777.1 and 1777.7.

Contractor and its subcontractors shall pay all workers employed on the project the rates determined by the Director of California Department of Industrial Relations (DIR).

These wages are also available from the California Department of Industrial Relations' Internet web site at <http://www.dir.ca.gov>. Future effective general prevailing wage rates, which have been predetermined and are on file with the California Department of Industrial Relations are referenced but not printed in the general prevailing wage rates.

SB 854 was signed into law on June 20, 2014 and became effective immediately. All contractors and subcontractors who bid or work on a public works project must register and pay an annual fee to the DIR. An awarding body may NOT accept a bid or enter into a contract for public works from an unregistered contractor.

Pursuant to Section 1773 of the Labor Code, the general prevailing rate of wages in the County in which the work is to be done has been determined by the Director of the California Department of Industrial Relations and are on file and available from the Clerk of the Board of Supervisors located at the County Administration Center, 940 Main Street, Suite 209, El Centro, CA 92243.

All contractors and subcontractors must furnish electronic payroll records directly to the Labor Commissioner (also known as California Division of Labor Standards Enforcement).



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

The U.S. Department of Transportation (DOT) provides a toll-free "hotline" service to report bid rigging activities. Bid rigging activities can be reported Mondays through Fridays, between 8:00 a.m. and 5:00 p.m., eastern time, telephone no. 1-800-424-9071. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report these activities. The "hotline" is part of the DOT's continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the DOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.

Withdrawal of bids shall not be permitted for a period of seventy-five (75) days after the date set for the opening thereof.

Monies withheld by the owner to ensure performance under the contract may be released in accordance with Government Code Section 4590 and these contract documents.

   
\_\_\_\_\_  
Blanca Acosta Date  
Clerk of the Board of Supervisors

Approved for Construction  
   
\_\_\_\_\_  
John A. Gay, P. E. Date  
Director of Public Works



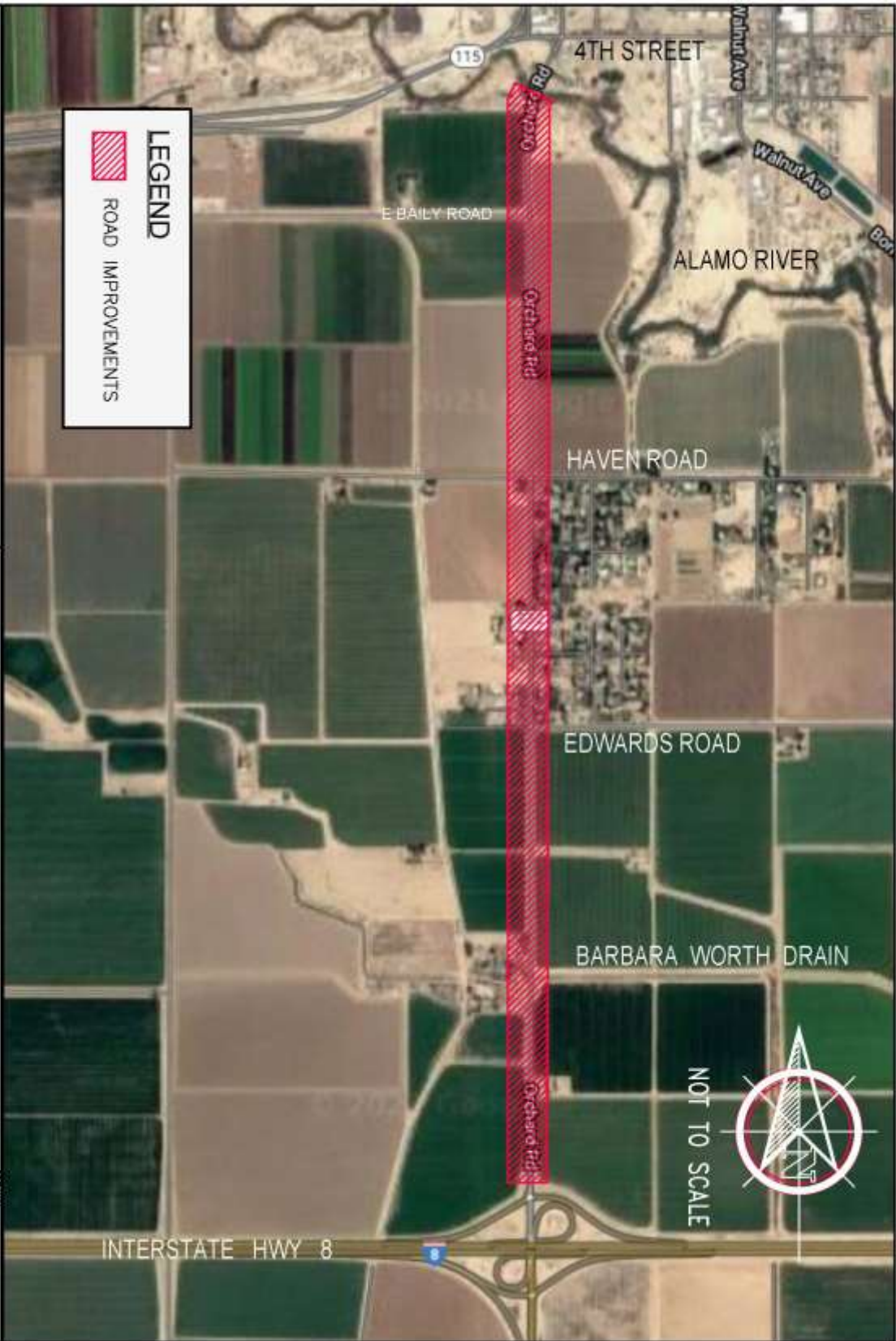
**IMPERIAL COUNTY**  
 PUBLIC WORKS DEPARTMENT  
 EL CENTRO, CALIFORNIA

**ORCHARD ROAD IMPROVEMENTS**  
 FROM THE SOUTH EDGE OF THE BRIDGE CROSSING THE NEW  
 RIVER TO THE MOST NORTHERLY RIGHT OF WAY FROM CALTRANS  
 INTERSTATE HIGHWAY 8  
 COUNTY PROJECT No. 6676  
 LOCATION MAP

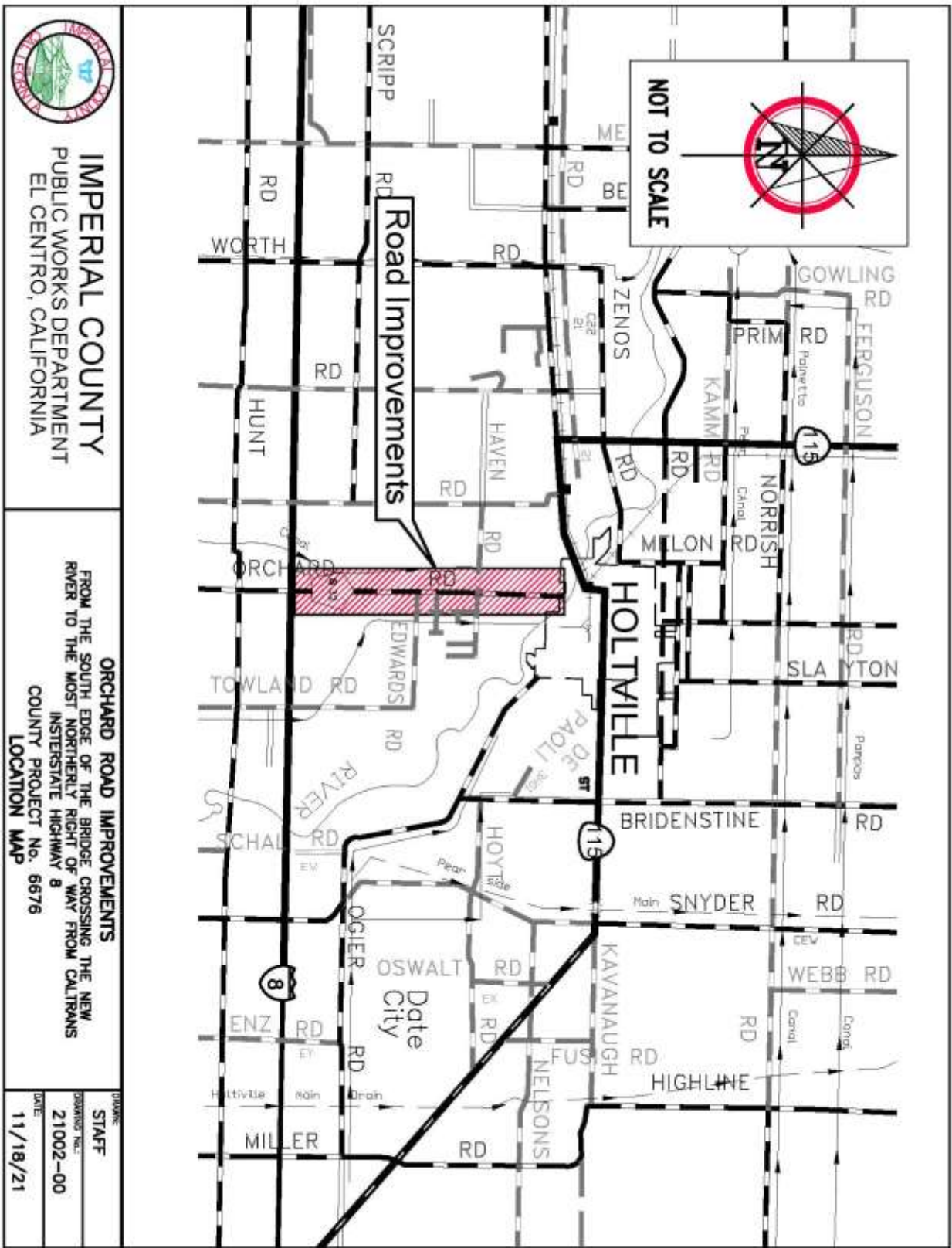
STAFF  
 DRAWING No. 21002-00  
 DATE: 11/18/21

**LEGEND**

 ROAD IMPROVEMENTS







**IMPERIAL COUNTY**  
 PUBLIC WORKS DEPARTMENT  
 EL CENTRO, CALIFORNIA

**ORCHARD ROAD IMPROVEMENTS**  
 FROM THE SOUTH EDGE OF THE BRIDGE CROSSING THE NEW  
 RIVER TO THE MOST NORTHERLY RIGHT OF WAY FROM CALTRANS  
 INTERSTATE HIGHWAY 8  
 COUNTY PROJECT No. 6676  
 LOCATION MAP

DATE:	11/18/21
DRAWING No.:	21002-00
STAFF:	



# STANDARD PLANS LIST

The standard plan sheets applicable to this Contract include those listed below. The applicable revised standard plans (RSPs) listed below are included in the project plans.

## ABBREVIATIONS, LINES, SYMBOLS, AND LEGEND

A3A	Abbreviations (Sheet 1 of 3)
A3B	Abbreviations (Sheet 2 of 3)
A3C	Abbreviations (Sheet 3 of 3)
A10A	Legend - Lines and Symbols (Sheet 1 of 5)
A10B	Legend - Lines and Symbols (Sheet 2 of 5)
A10C	Legend - Lines and Symbols (Sheet 3 of 5)
A10D	Legend - Lines and Symbols (Sheet 4 of 5)
A10E	Legend - Lines and Symbols (Sheet 5 of 5)

## PAVEMENT MARKERS, TRAFFIC LINES, AND PAVEMENT MARKINGS

A20A	Pavement Markers and Traffic Lines - Typical Details
A24D	Pavement Markings - Words
A24F	Pavement Markings - Crosswalks
RSP A24G	Pavement Markings - Yield Lines, Limit Lines, and Wrong Way Details

## TEMPORARY WATER POLLUTION CONTROL

T56	Temporary Water Pollution Control Details (Temporary Fiber Roll)
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## CANCELED STANDARD PLANS LIST

The standard plan sheets listed below are canceled and not applicable to this contract.

Plan No.	Date Canceled	Plan No.	Date Canceled	Plan No.	Date Canceled
P31B	10-18-19				
P32A	10-18-19				
P32B	10-18-19				
C7A	10-19-18				
C7B	10-19-18				
C7C	10-19-18				
D89	10-18-19				
B11-55	04-19-19				
B11-56	10-19-18				
B11-57	10-19-18				
ES-2C	10-19-18				
RSP ES-3I	10-16-20				
ES-3J	10-16-20				
ES-3L	10-16-20				
ES-7P	04-17-20				



**Bid Items and Applicable Sections**

Item code	Item description	Applicable section
999990	<u>MOBILIZATION</u>	<u>1,9</u>
<u>120100</u> <u>120090</u>	<u>TEMPORARY TRAFFIC CONTROL</u>	<u>12</u>
<u>130100</u> <u>130200</u> <u>130640</u>	<u>WATER POLLUTION CONTROL</u>	<u>13</u>
398200	<u>COLD PLANE ASPHALT CONCRETE PAVEMENT</u>	<u>39/Greenbook</u>
398200	<u>3 INCH DEEP GRIDING OF EXISTING ASPHALT CONCRETE PAVEMENT</u>	<u>39/Greenbook</u>
374207	<u>CRACK TREATMENTS</u>	<u>37</u>
390135	<u>1 INCH THICK LEVELING COURSE WITH 1/2 INCH HMA TYPE A</u>	<u>39/Greenbook</u>
393005	<u>INSTALL A TENSAR GLASPAVE 50 PAVING MAT OR APPROVED EQUAL</u>	<u>39/Greenbook</u>
390132	<u>3 INCH THICK A.C. OVERLAY WITH 3/4" HMA TYPE A</u>	<u>39/Greenbook</u>
260202	<u>4 INCH THICK SHOULDER BACKING WITH CLASS II AGGREGATE BASE.</u>	<u>26</u>
260202	<u>EXTEND SHOULDER BACKING WITH 4 INCH THICK CLASS II AGGREGATE BASE AT EXISTING ROAD ACCESS (DRIVEWAYS) TO R/W (37 SQUARE YARDS AVERAGE EACH DRIVEWAY)</u>	<u>26</u>
070030	<u>LEAD COMPLIANCE PLAN</u>	<u>7</u>
<u>820840A</u>	<u>SIGNING, STRIPING AND PAVEMENT MARKINGS</u>	<u>82,84</u>
	<u>SURVEYING AND CONSTRUCTION STAKING</u>	<u>5</u>

**Add to section 1-1.07B:**

**Attorney General:** County Counsel

**Board of Supervisors or Board:** The Board of Supervisors of the County of Imperial, the governing body created by law and the awarding authority of the County of Imperial, acting either directly or through its duly appointed officials.

**Chief Engineer:** County Director of Public Works

**County:** County of Imperial, a political subdivision of the State of California, as created by law

**Contract Documents:** Plans, *Notice to Bidders and Special Provisions*, and *Bid Book* and Contract.

**Redefine the following definitions in section 1-1.07B to mean:**

**Department/Department of Transportation:** County of Imperial Board of Supervisors (except when referencing a test methods of, or to denote publications or designate the mailing address of an agency of the State of California, website, mailing address, or manual)

**District:** The Department of Public Works, Imperial County

**Revised Standard Specifications:** New or revised standard specifications. These specifications are available at the following website: <http://www.dot.ca.gov/des/oe/construction-contract-standards.html> and as stated in section 2-1.06B.

**California Standard Specifications:** Also, Standard Specifications: The Standard Specifications dated May 2018, State of California, Department of Transportation.

**Director:** The appointed official of the County of Imperial authorized to administer the contract.



The Contract Documents contain the provisions required for the construction of the project. Information obtained from an officer, agent, or employee of the County or any other person will not affect the risks or obligations assumed by you or relieve you from fulfilling any of the conditions of the Contract.

A Non-Collusion Affidavit is included in the *Bid Book* (Pub Cont Code §7106). Signing the bid also constitutes signature of the Non-Collusion Affidavit.

**Add to section 2-1.07:**

Check with local contractors regarding local site, surface, subsurface, and material conditions and variability. Failure to do so will not relieve your obligation to enter into a contract and complete the contemplated work under the Contract Documents.

Examine all of the various parts of these Documents if contemplating the submission of a bid, and should there be any doubt as to the meaning or intent of the Contract Documents, you must request an interpretation, in writing. Any interpretation or change in the Contract Documents will be made, in the form of addenda to the Documents and will be furnished to all Bidders receiving a set of the Documents. The County is not responsible for any other explanation or interpretations of the Documents.

Request for interpretation must be submitted in writing to Robert Ureña, at 155 S. 11<sup>th</sup> Street, El Centro, CA 92243 or emailed to RobertUrena@co.imperial.ca.us before July 12, 2022. No questions will be responded to after this day.

**Replace item 2 in the list in the 2nd paragraph of section 2-1.10 with:**

2. California contractor license number

**Add to section 2-1.10:**

**SUBCONTRACTOR LIST**

The Contractor shall maintain records showing the name and business address of each subcontractor and/or trucking company, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all of these firms. Prime contractors shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.

Upon completion of the Contract, a summary of these records shall be provided to the Engineer by the Contractor. These records shall be furnished to the Engineer within 90 days from the date of Contract acceptance. \$10,000 will be withheld from payment until this is submitted and accepted.

Prior to the fifteenth of each month, the Contractor shall submit documentation to the Engineer showing the amount paid to trucking companies. The Contractor shall also obtain and submit documentation to the Engineer showing the amount paid by trucking companies to all firms, including owner-operators, for the leasing of trucks.

The Contractor shall also obtain and submit documentation to the Engineer showing the truck number, owner's name and California Highway Patrol CA number of the owner of the truck for all trucks used during that month.

A sheet for listing subcontractors, as required herein is included in the proposal. The bidder must list in its bid all its subcontractors who will perform work in excess of one-half percent of the total bid or, in the case of streets, or highways, one-half percent or \$10,000, whichever is greater (Public Contract Code S 4104).

For purposes of this reporting, the term Subcontractor shall include:

- A. A contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who contracts with you; or
- B. Any subcontractor as defined in Public Contracts Code 4113 that performs work or labor or otherwise renders service to you; or
- C. Any person, corporation, partnership, joint venture, association or other business entity that provides to you machinery or other equipment, together with the operator of such equipment or machinery, unless such business entity is paid an hourly rate, works under your sole control and can terminate its business relationship with you at will without incurring any liability for such termination.

**Replace the paragraphs of section 2-1.33A with:**

Complete the forms in the *Bid Book*. Submit the forms with your bid.

Do not fax forms, except for the copies of forms with the public works contractor registration number submitted after the time of bid. Fax these copies to (442) 265-1858, Attention Robert Ureña III, Civil Engineer Assistant II.

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

All blank spaces in the bid form must be filled in, in ink, in both words and figures, where required. No changes will be made in the phraseology of the forms. Written amounts will govern in cases of discrepancy between the amounts stated in writing and the amounts stated in figures. In case of discrepancy between unit prices and totals, unit prices will prevail. Indicate receipt of all addenda.

Any bid will be deemed nonresponsive if it contains any of the following:

- 1. Omissions, erasures, alterations, or additions of any kind
- 2. Prices uncalled for
- 3. Prices that are obviously unbalanced
- 4. Fails to conform to the conditions of the published Advertisement for Bid in any manner.

Sign your bid in ink in the space provided.

If you are a corporation, state the legal name of the corporation, together with the signature of the officer or officers authorized to sign contracts on behalf of the corporation. If you are a co-partnership, state the true name of the firm, together with the signature of the partner or partners authorized to sign contracts on behalf of the co-partnership.

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

State and local sales and use taxes required by State statutes and laws will be paid by you. Prices quoted in the Bid must include sales tax.

Submit bids in a sealed envelope to the office of the Clerk of the Board of Supervisors at the County Administration Center located at 940 Main Street in El Centro, CA 92243. Each sealed bid must be plainly marked on the outside as **"BID for ORCHARD ROAD IMPROVEMENTS FROM STATE ROUTE 7 TO ALAMO RIVER (CITY OF HOLTVILLE LIMITS), COUNTY PROJECT No. 6676, to be**

**opened at July 22, 2022 at 2:00 p.m.** and must bear on the outside the name of the bidder, his address, and his license number.

All bids must be made on the required bid form. All blank spaces for bid prices must be filled in, in ink or typewritten, and the bid form must be fully completed and executed when submitted. Only one copy of the bid form is required.

You must satisfy yourself of the accuracy of the estimated quantities in the bid schedule by examination of the site and a review of the drawings and specifications, including addenda. After bids are submitted, you will not assert that there was a misunderstanding concerning the quantities of work or of the nature of the work to be done.

You may modify your bid by written communication provided such communication is received by the County before bid opening time. The written communication should not reveal the bid price but should state the addition or subtraction or other modification so that the final prices or terms will not be known by the County until the sealed bid is opened.

A bid will not be accepted if it modifies the plans or specifications or method of work.

All bidders shall submit documents to the Imperial County Public Works Department showing proof of valid and current permits issued by the Air Pollution Control District, including the authorization to construct and the permit to operate. The permits shall be submitted after the bid opening and prior to the award of the Contract. Any bidders failing to submit said documents 10 days after bid opening shall render their bids nonresponsive and/or responsible.

Full compensation for all coordination with and obtaining such permits and licenses shall be at your expense, including any agency permit fees.

**Replace the paragraphs of section 2-1.34 with:**

Each bid must be accompanied by a bid bond payable to the County for ten percent (10%) of the total amount of the bid. Once bid prices have been compared, the County will return the bid bonds of all except the three lowest responsible bidders. When the agreement is executed, the bid bonds of the two remaining unsuccessful bidders will be returned. The bid bond of the successful bidder will be retained until the payment bond and performance bond have been executed and approved. A certified check or cashier's check may be used instead of a bid bond, made payable to the County of Imperial.

The bidder's bond must conform to the bond in the *Bid Book* and must be properly filled out and executed. The bidder's bond form included in the *Bid Book* may be used.

**Replace the paragraphs of section 2-1.40 with:**

The County may waive any informalities or minor defects or reject all bids. Any bid may be withdrawn before the bid opening or authorized postponement date. No bidder may withdraw a bid within seventy-five (75) days after the bid opening date. If the Contract cannot be awarded within the specified period, the time may be extended by mutual agreement between the County and the bidder.

**Add to section 2-1.46:**

The County may make such investigations necessary to determine your ability to perform the work, and you will furnish to the County all requested information and data for this purpose. The County reserves the right





The party filing the protest must transmit a copy of all protest documents and any attachments to all other parties with a direct financial interest which may be adversely affected by the determination of the protest appeal concurrently.

The County will review the protest and make a determination.

The Notice to Proceed will be issued after the Contract has been approved by the Imperial County Board of Supervisors.

If the County awards the Contract, the award is made to the lowest responsible bidder within seventy-five (75) days. This period may be subject to extension for such further period as agreed upon in writing between the Department and you.

**Construction Contract Notification Requirement**

Contracting officers, applicants and contractors are required to give written notice to the Office of Federal Contract Compliance Programs (OFCCP) within 10 working days of award of a construction contract or subcontract in excess of \$10,000 (41 CFR 60-4.2)

The notification should include:

- The name, address and telephone number of the contractor;
- Employer identification number;
- Dollar amount of the contract;
- Estimated starting and completion dates of the contract;
- The contract number; and
- Geographical area in which the contract is to be performed.

Notices should be sent to the OFCCP Pacific Regional office with the following address:

90 7th Street, Suite #18-300, San Francisco, CA 94103.

A copy of notification should be provided for County of Imperial filing purposes

**Replace the paragraphs of section 3-1.05 with:**

The successful bidder must furnish 2 bonds with a corporate surety approved by the County:

1. Payment bond to secure the claim payments of laborers, workers, mechanics, or materialmen providing goods, labor, or services under the Contract. This bond must be equal to at least 100 percent of the total bid.
2. Performance bond to guarantee the faithful performance of the Contract. This bond must be equal to at least 100 percent of the total bid.

The bond forms are in the *Bid Book*.

Attorneys-in-fact who sign bonds must file with each a certified and effective dated copy of their power of attorney.

File bonds within 10 business days from the date when Notice of Award is delivered to you. The Notice of Award must be accompanied by the necessary agreement and bond forms. Your failure to execute the agreement may be considered as a default by the County and the bid bond will become the property of the County.



1. Subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the Contract
2. Unknown physical conditions of an unusual nature differing materially from those ordinarily encountered and generally recognized as included in the work provided for in the Contract are encountered at the site

Upon written notification the Engineer will investigate the conditions, and if the Engineer determines the conditions materially differ and cause an increase or decrease in the cost or item required for the performance of any work under the Contract, an adjustment, excluding loss of anticipated profits, will be made and the Contract modified. The Engineer will notify you of his determination whether or not and adjustment of the Contract is warranted.

You will be allowed 15 days from notification of determination to file a notice of potential claim as allowed under Section 5-1.43, otherwise the Engineer's determination will be deemed to have been accepted by you as correct.

The notice of potential claim must state how your position differs from the Engineer's determination and you must provide any additional information obtained by you, including but not limited to additional geotechnical data. Supplementary information, obtained by you subsequent to the filing of the notice of potential claim, must be submitted to the Engineer in an expeditious manner.

The notice of potential claim must be accompanied by your certification that the following were made in preparation of the bid:

1. Review of the contract
2. Review of the *Information Handout*
3. Review of the log of test borings and other records of geotechnical data to the extent they were made available to you prior to the opening of bids
4. Examination of the conditions above ground at the site

No Contract adjustment which results in a benefit to you will be allowed unless you provide the required written notice.

No Contract adjustment will be allowed under the provisions in section 4 for any effects caused on unchanged work.

Any Contract adjustment warranted due to differing site conditions will be made under the provisions in section 4-1.05.

## **REMOVAL OF ASBESTOS AND HAZARDOUS SUBSTANCES**

When the presence of asbestos or hazardous substances are not shown on the plans or indicated in the specifications and you encounter materials which you reasonably believe to be asbestos or a hazardous substance as defined in Section 25914.1 of the Health and Safety Code, and the asbestos or hazardous substance has not been rendered harmless, you may continue work in unaffected areas reasonably believed to be safe. Immediately cease work in the affected area and report the condition to the Engineer in writing.

In conformance with Section 25914.1 of the Health and Safety Code, removal of asbestos or hazardous substances including exploratory work to identify and determine the extent of the asbestos or hazardous substance will be performed by a separate contract.

If delay of work in the area delays the current controlling operation, the delay will be considered a right of way delay and you will be compensated for the delay in conformance with the provisions in section 8-1.07.



Except for a building-construction non-federal-aid contract, the Contractor shall perform work equaling at least 30 percent of the value of the original total bid with the Contractor's own employees and equipment, owned or rented, with or without operators.

Each subcontract must comply with the contract. Each subcontractor must have an active and valid:

1. State contractor's license with a classification appropriate for the work to be performed (Bus & Prof Code, § 7000 et seq.)
2. Public works contractor registration number with the Department of Industrial Relations

Submit copies of subcontracts upon request by the Engineer. Before subcontracted work starts, submit a Subcontracting Request form.

Do not use a debarred contractor; a current list of debarred contractors is available at the Department of Industrial Relations' Web site at:

<https://www.dir.ca.gov/dlse/debar.html>

Upon request by the Engineer, immediately remove and not again use a subcontractor who fails to prosecute the work satisfactorily.

Payment for subcontracted work involved will be withheld from progress payments due, or to become due, until correction is made. Failure to comply may result in termination of the contract.

Noncompliance shall be corrected. Payment for subcontracted work involved will be withheld from progress payments due, or to become due, until correction is made. Failure to comply may result in termination of the contract.

Your subcontractors will perform the work and supply the materials they are listed for unless you have prior written authorization to perform the work with other forces or obtain the materials from other sources.

### **PROMPT PROGRESS PAYMENT TO SUBCONTRACTORS**

A prime contractor or subcontractor shall pay to any subcontractor not later than 10 days of receipt of each progress payment in accordance with the provision in Section 7108.5 of the California Business and Professions Code concerning prompt payment to subcontractors. The 10 days is applicable unless a longer period is agreed to in writing. Any violation of Section 7108.5 shall subject the violating contractor or subcontractor to the penalties, sanctions and other remedies of that Section. Federal regulation (49 CFR 26.29) requires that any delay or postponement of payment over 30 days of receipt of each payment may take place only for good cause and with the agency's prior written approval. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime contractor or subcontractor in the event of a dispute involving late payment, or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor. This provision applies to both DBE and non-DBE prime contractors and subcontractors.

The County shall hold retainage at least five percent of the contract price on any public works contract exceeding \$5,000 as per California public Contract Code § 9203 from the Contractor and shall make prompt and regular incremental acceptances of portions, as determined by the County of the Contract work and pay retainage to the Contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from a subcontractor within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the Contract work by

the County. Federal regulation (49 CFR 26.29) requires that any delay or postponement of payment over 30 days may take place only for good cause and with the County's prior written approval. Any violation of this provision shall subject the violating prime contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime contractor or subcontractor in the event of a dispute involving late payment or non-payment by the prime contractor, deficient subcontract performance and/or noncompliance by a subcontractor. This provision applies to both DBE and non-DBE prime contractors and subcontractors.

### **PERFORMANCE OF SUBCONTRACTORS**

The subcontractors listed by you in Bid book shall list therein 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 one percent of the total bid or \$10,000, whichever is greater, in accordance with the Subletting and Subcontracting Fair Practices Act, commencing with Section 4100 of the Public Contract Code. The bidder's attention is invited to other provisions of the Act related to the imposition of penalties for a failure to observe its provisions by using unauthorized subcontractors or by making unauthorized substitutions.

The successful bidder and subcontractors agree to comply with Public Contract Code section 7103.5(b), which states: "In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the contractor or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act ( 15 U.S.C. Sec. 15 ) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the contractor, without further acknowledgment by the parties."

### **Add to section 5-1.20A**

### **PERMITS, LICENSES, AGREEMENTS, AND CERTIFICATIONS WITH OTHER ENTITIES**

The Contractor shall coordinate with and be responsible for obtaining permission, permits and other documentation as necessary by Caltrans, Imperial Irrigation District, City of Holtville and any other agencies, utility providers and/or individuals that may be affected by the project in order to obtain any required authorization to access, construct, and permit to operate.

All bidders shall submit documents to the Imperial County Public Works Department showing proof of valid and current permits issued by the Air Pollution Control District, including the authorization to construct and the permit to operate. The permits shall be submitted after the bid opening and prior to the award of the Contract. Any bidders failing to submit said documents within 10 days after bid opening shall render their bids nonresponsive.

Full compensation for all coordination with and obtaining such permits and licenses shall be at contractor expense, including any agency permit fees. All items within the required permits shall be considered as included in the various items of work and no additional payment shall be made therefor.

**Replace section 5-1.24 of the RSS with:**

**SURVEYING**

The contractor shall use a person (Surveyor) authorized to practice land surveying in the State of California.

Surveyor to verify both horizontal and vertical control and existing conditions. Surveyor to set local horizontal and vertical intervisible control on project site. Read and comprehend plans and resolve minor discrepancies, should any exist. Contractor shall preserve and, if necessary, surveyor shall perpetuate all existing horizontal and vertical monumentation.

Stakes and marks will be set by the surveyor sufficient to establish the lines and grades required for the completion of the work delineated on the plan set. The exact number of staking sets, horizontal location of construction stakes and associated grades required shall be decided at the pre-con meeting and may include any or all of the following: project limits, demolition limits, alignment, rough grade, final grade, slope stakes, face of curb, existing and proposed utilities and other staking as requested. Any cost to refresh and/or replace stakes is the sole responsibility of the Contractor. Cut sheets shall be provided to the County.

The Contractor shall provide a full set of field marked as-built plans including as in-field exclusions, revisions and/or changes to the original plan set.

Full compensation for providing Surveying work shall be considered as included in the contract lump sum price paid for "Surveying and Construction Staking" and no additional compensation shall be allowed therefor.

**Replace the paragraphs of section 5-1.32 with:**

**AREAS FOR USE**

Occupy County of Imperial Right-of-Way only for purposes necessary to perform the work.

If no County-owned area is designated for the Contractor's use, you may arrange for temporary storage with the County.

Personal vehicles of your employees must not be parked on the traveled way or shoulders, including sections closed to traffic.

Defend, indemnify, and hold the County harmless to the same extent as under Section 7-1.05 of the Standard Specifications.

The County does not allow temporary residences within the County of Imperial Right-of-Way.

**Add between the 2nd and 3rd paragraphs of section 5-1.36C (3):**

**Nonhighway Facility Rearrangement**

The County may rearrange a nonhighway facility during the Contract. Rearrangement of a nonhighway facility includes installation, relocation, alteration, or removal of the facility.



The County may authorize facility owners and their agents to enter the Right-of-Way to perform rearrangement work for their facilities or to make connections or repairs to their property. Coordinate activities to avoid delays.

Notify the Engineer at least 30 days before the interfering utilities are to be rearranged. The Engineer notifies the utility owners.

If necessary rearrangement of underground infrastructure is not described in the Contract, the Engineer may order you to perform the work. The rearrangement is change order work.

Immediately notify the Engineer of a delay due to a rearrangement different from that described in the Contract. \*

If you want infrastructure rearrangement different from that described in the Contract:

1. Notify the Engineer
2. Make an arrangement with the infrastructure owner
3. Obtain authorization for the rearrangement
4. Pay the infrastructure owner any additional cost

The County does not adjust time or payment for a rearrangement different from that described in the Contract.

**Replace section 5-1.36D with:**

**MONUMENT PRESERVATION/PERPETUATION**

The contractor shall be responsible for any survey monuments, corner accessories and/or benchmarks within the limits of work. In accordance with Professional Land Surveyors' Act (Chapter 15 of the California Business and Professions Code), such objects within the limits of work that may be disturbed or destroyed by construction shall be referenced by a person authorized to practice Land Surveying and a Corner Record (or Record of Survey) showing said references shall be filed with the County Surveyor prior to construction. Any monument, corner accessory, or benchmark that is disturbed or destroyed by construction shall be replaced with appropriate monumentation by a person authorized to practice Land Surveying and a Corner Record (or Record of Survey) shall be filed prior to project completion. Form MPR-01 and Form MPR-02 are required for all Imperial County Projects. See Division XVI "Exhibits & Permits" for forms.

It shall be the contractor's responsibility to complete a field survey to determine the existence of survey monuments, corner accessories, and/or benchmarks to be impacted prior to construction, said survey shall be conducted by a person authorized to practice land surveying. The field survey research shall include researching of survey monuments record/maps; completion of the field investigation to determine the existence/locations of the survey monuments prior to the commencement of construction activities for all roads impacted; placement of a flagged lath adjacent to the found monument indicating the direction and the distance of the monument from the lath; preparation of field notes for each found monument illustrating relative dimensions from the surrounding existing objects and the descriptions of the monuments; reporting to the County Surveyor/County of Imperial Public Works Department Director of the found monuments to evaluate the necessity to furnish a new survey monument for each found monument and to report the locations and the conditions of the found monuments; and all necessary field coordination with the Contractor to preserve/perpetuate the found monuments. The person authorized to practice land surveying shall complete a Pre-construction Monument Preservation Report (form MPR-01) and the report shall be provided to the Imperial County Surveyor prior to construction. The report shall be accompanied by necessary sketches, photos, or other records as provided in the Monument Preservation Report. In addition to said pre-construction Monument Preservation Report, if it is determined that survey monuments, corner

accessories and/or benchmarks within the limits of work may be disturbed or destroyed, the person authorized to practice land surveying shall reference said items and file a corner record (or record of survey) of the references with the County Surveyor prior to construction.

Full compensation for completing necessary research, site inspection, field survey, report, and/or preparation of corner records (or records of survey) shall be considered as included in the contract lump sum price paid for "Monument Preservation/Perpetuation" and no additional compensation shall be allowed therefor.

Any existing survey monuments or County recognized benchmarks shall be protected by the Contractor. Should any such monuments or benchmarks be removed, damaged, obliterated or altered by the Contractor's operations, the Contractor shall be responsible for preservation or perpetuation by the proper resetting of the same as per the Subdivision Map Act, the Professional Land Surveyors Act and to the satisfaction of the County Surveyor/Director of Public Works Department. Such points shall be preserved or perpetuated with appropriate monumentation by a licensed land surveyor or a registered civil engineer authorized to practice land surveying.

All preserved or perpetuated survey monuments shall be protected by new ductile iron monument wells. The Contractor shall supply a new ductile iron monument well for each monument and horizontally position the monument well per the direction of the licensed land surveyor or registered civil engineer after the placement of the new pavement. The Contractor shall place a 12 inch wide, 12 inch deep P.C.C. concrete ring concentric with the exterior of the monument well per the County of Imperial Standards at the time the monument well is placed. Corner Records or a Record of Survey as appropriate shall be filed by the licensed land surveyor or registered civil engineer authorized to practice land surveying.

Prior to final project inspection, the Contractor is responsible to have a post-construction Monument Preservation Report (form MPR-02) completed by a person authorized to practice land surveying and submitted to the Resident Engineer for submittal to the County Land Surveyor.

If survey monument(s), corner accessory(ies), and/or benchmark(s) are disturbed or destroyed during construction, new monument(s), corner accessory(ies), and/or benchmark(s) shall be set in the surface of the new construction or a witness monument(s) set to perpetuate the original location of the disturbed monument(s) or benchmark(s). Contractor is responsible that a post-construction corner record(s) (or record of survey) be filed with the County Surveyor prior to final inspection of the project.

The Contractor shall be paid for preservation/perpetuation of survey monuments/benchmarks on a lump sum basis for all survey monument/benchmark to be preserved/perpetuated for all road locations encompassed in this project. The work associated with the preservation/perpetuation of the survey monuments/benchmarks shall include filing appropriate survey documentations/maps before and after the preservation/perpetuation of the survey monuments; jack hammering/sawcutting the new pavement surface to allow the installation of the new P.C.C. concrete ring and positioning of the monument well cover 3/8 inches below the new finish pavement surface; backfilling the monument well with compacted Class 2 Base; plumbing monument well; leveling monument well frames and covers; furnishing new brass disks with punching and marking for survey monuments, if necessary; preservation/perpetuation of survey monuments; installation of new P.C.C. concrete rings circumferentially around the monument well covers; removal and disposal of construction demolition material associated with the installation of survey monument wells and all other items incidental to preserving/perpetuating survey monuments in accordance with the Subdivision Map Act, the Professional Land Surveyors Act and to the satisfaction of the County Surveyor/Director of Public Works Department.

In the event that additional survey monuments/benchmarks are identified after the initial survey, they must be preserved/perpetuated with no additional compensation therefor.

**Replace first and second paragraph of section 5-1.47 with:**

**GUARANTEE**

Guarantee all materials and equipment furnished and Work performed for a period of one (1) year from the date of Completion. You must warrant and guarantee for a period of one (1) year from the date of Completion of the project that the completed project is free from all defects due to faulty materials or workmanship and you will promptly make such corrections as may be necessary by reason of such defects including the repairs of any damage to other parts of the project resulting from such defects. The County will give notice of observed defects with reasonable promptness. Should you fail to make such repairs, adjustments, or other Work that may be made necessary by such defects, the County may do so and bill you. Your performance bond remains in effect through the guarantee period.

The guarantee excludes damage or displacement caused by an event outside your control, including:

1. Normal wear and tear
2. Improper operation
3. Insufficient maintenance
4. Abuse
5. Unauthorized change
6. Act of God

^^

**6 CONTROL OF MATERIALS**

**Add to section 6-1.03 of the RSS:**

**6-1.03B Submittals**

**6-1.03B (1) Work Plan**

For local material, such as rock, gravel, earth, structure backfill, pervious backfill, imported borrow, and culvert bedding, obtained from a (1) noncommercial source, or (2) source not regulated under California jurisdiction, submit a local material plan for each material at least 60 days before placing the material. The local material plan must include:

1. Certification signed by you and an engineer who is registered as a civil engineer in the State or a professional geologist licensed as a professional geologist by the State stating:

I am aware local material from a noncommercial source or a source not regulated under CA jurisdiction must be sampled and analyzed for pH and lead and may require sampling and analysis under section 6-1.03B(3) for other constituents of concern based on the land use history. I am aware that local material sources must not contain ADL at concentrations greater than 80 mg/kg total lead or equal to or greater than 5 mg/L soluble lead as determined by the Waste Extraction Test (WET) Procedures, 22 CA Code of Regs § 66261.24(a)(2) App II. I am aware that a maximum quantity of material may be excavated at the site based on the minimum number of samples taken before excavating at the site under section 6-1.03B (3).

2. Land use history of the local material location and surrounding property
3. Sampling protocol
4. Number of samples per volume of local material

5. QA and QC requirements and procedures
6. Qualifications of sampling personnel
7. Stockpile history
8. Name and address of the analytical laboratory that will perform the chemical analyses
9. Analyses that will be performed for lead and pH
10. Other analyses that will be performed for possible hazardous constituents based on:
  - 10.1. Source property history
  - 10.2. Land use adjacent to source property
  - 10.3. Constituents of concern in the ground water basin where the job site is located

The plan must be sealed and signed by an engineer who is registered as a civil engineer in the State or a professional geologist licensed as a professional geologist by the State.

If the plan requires revisions, the Engineer provides comments. Submit a revised plan within 7 days of receiving comments. Allow 7 days for the review.

#### **6-1.03B(2) Analytical Test Results**

At least 15 days before placing local material, submit analytical test results for each local material obtained from a noncommercial source or a source not regulated under CA jurisdiction. The analytical test results must include:

1. Certification signed by an engineer who is registered as a civil engineer in the State or a professional geologist licensed as a professional geologist by the State stating:

The analytical testing described in the local material plan has been performed. I performed a statistical analysis of the test results using the US EPA's ProUCL software with the applicable 95 percent upper confidence limit. I certify that the material from the local material source is suitable for unrestricted use at the job site, it has a pH above 5.0, does not contain soluble lead in concentrations equal to or greater than 5mg/l as determined by the Waste Extraction Test (WET) Procedures, 22 CA Code of Regs § 66261.24(a)(2) App II, does not contain lead in concentrations above 80 mg/kg total lead, is free from all other contaminants identified in the local material plan, and will comply with the job site's basin plan and water quality objectives of the RWQCB.

2. Chain of custody of samples
3. Analytical results no older than 1 year
4. Statistical analysis of the data using US EPA's ProUCL software with a 95 percent upper confidence limit
5. Comparison of sample results to hazardous waste concentration thresholds and the RWQCB's basin plan requirements and water quality objectives for the job site location

#### **6-1.03B(3) Sample and Analysis**

Sample and analyze local material from a (1) noncommercial source or (2) source not regulated under CA jurisdiction:

1. Before bringing the local material to the job site
2. As described in the local material plan
3. Under US EPA Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (SW-846)

The sample collection must be designed to generate a data set representative of the entire volume of proposed local material.

Before excavating at the (1) noncommercial material source or (2) a source not regulated under CA jurisdiction, collect the minimum number of samples and perform the minimum number of analytical tests for the corresponding maximum volume of local material as shown in the following table:

**Minimum Number of Samples and Analytical Tests for Local Material**

Maximum volume of imported borrow (cu yd)	Minimum number of samples and analytical tests
< 5,000	8
5,000–10,000	12 for the first 5,000 cu yd plus 1 for each additional 1,000 cu yd or portion thereof
10,000–20,000	17 for the first 10,000 cu yd plus 1 for each additional 2,500 cu yd or portion thereof
20,000–40,000	21 for the first 20,000 cu yd plus 1 for each additional 5,000 cu yd or portion thereof
40,000–80,000	25 for the first 40,000 cu yd plus 1 for each additional 10,000 cu yd or portion thereof
> 80,000	29 for the first 80,000 cu yd plus 1 for each additional 20,000 cu yd or portion thereof

Do not collect composite samples or mix individual samples to form a composite sample.

Analyze the samples using the US EPA's ProUCL software with a 95 percent upper confidence limit. All chemical analysis must be performed by a laboratory certified by the SWRCB's Environmental Laboratory Accreditation Program (ELAP).

The analytical test results must demonstrate that the local material:

1. Is not a hazardous waste
2. Has a pH above 5.0
3. Has an average total lead concentration, based upon the 95 percent upper confidence limit, at or below 80 mg/kg
4. Is free of possible contaminants identified in the local material plan
5. Complies with the RWQCB's basin plan for the job site location
6. Complies with the RWQCB's water quality objectives for the job site location

**6-1.03C Local Material Management**

Do not place local material until authorized.

If the Engineer determines the appearance, odor, or texture of any delivered local material suggests possible contamination, sample and analyze the material. The sampling and analysis is change order work unless (1) hazardous waste is discovered or (2) the analytical test results indicate the material does not comply with section 6-1.03B(3).

Dispose of noncompliant local material at an appropriately permitted CA Class I, CA Class II or CA Class III facility. You are the generator of noncompliant local material.

**Replace section 6-1.06 of the RSS for section 6-1 with:**

**6-1.06 BUY CLEAN CALIFORNIA ACT**

**6-1.06A Summary**

The materials or products shown in the following table are subject to the Buy Clean California Act (Pub Cont Code § 3500 et seq.):

Material or product	Material specifications
Carbon steel rebar <sup>a</sup>	Section 52-1.02B, "Bar Reinforcement" Excludes epoxy-coated or galvanized reinforcement uses.
Structural steel <sup>b</sup>	Section 55-1.02D(1), "General," – Structural Steel and Other Materials tables and Section 99, "Building Construction" For hot-rolled, plate or hollow products.
Flat glass <sup>c</sup>	Section 99, "Building Construction"
Mineral wool board insulation <sup>d</sup>	Section 99, "Building Construction"

<sup>a</sup>For each mill providing 20,000 pounds or more on the project

<sup>b</sup>For each mill providing 5,000 pounds or more on the project

<sup>c</sup>For each manufacturer providing 2,000 square feet or more on the project

<sup>d</sup>For each manufacturer providing 4,000 square feet or more on the project

For product category rules for applicable materials or products, go to the METS website. Use the product category rule in effect on the date of bid opening unless otherwise authorized. An environmental product declaration is not required for a material or product for either of the following conditions:

1. Applicable product category rule has expired without replacement as of the bid opening date.
2. Applicable product category rule was issued less than 100 days before the bid opening date.

For projects with a bid opening date from December 1, 2019, through May 31, 2021, with total bid over \$1 million and 175 or more original working days, submit an environmental product declaration as an informational submittal for each applicable material or product. Submit each environmental product declaration within 15 days of initial installation of the material or product.

For projects with a bid opening date after May 31, 2021, with total bid over \$1 million and 175 or more original working days, submit an environmental product declaration for each applicable material or product. Submit an environmental product declaration for each applicable material or product at least 15 days before scheduled installation. The global warming potential of each applicable material or product as evidenced by its environmental product declaration shall not exceed the maximum acceptable global warming potential values established by the Department of General Services. Do not install the applicable material or product until the submittal is authorized. The Department of General Services publishes the maximum acceptable global warming potential for each category of material or product in the State Contracting Manual. For the manual go to: <https://www.dgs.ca.gov/>.

**6-1.06B Definitions**

**environmental product declaration:** Independently verified document created and verified under International Organization for Standardization (ISO) 14025 for Type III environmental declarations that identifies the global warming potential emissions of the facility-specific material or product through a product stage life cycle assessment.

**product category rule:** Program operator established rule based on the science of life cycle assessment that governs the development of the environmental product declaration for the material or product.

**product stage:** Boundary of the environmental product declaration that includes (1) raw material supply, (2) transportation processes, and (3) processing operations, including operations such as melting, mixing, fabrication, finishing, curing, cooling, trimming, packaging and loading for transport delivery. Commonly referred to as a "cradle-to-gate" life cycle assessment.

**program operator:** Independent agency that supervises and confirms the full environmental product declaration development process under ISO 14025.

**raw material supply:** Upstream processes which can include allocations, extraction, refinement, reclamation, handling and processing of the constituents used in producing the material or product.

**transportation processes:** Includes transportation of raw, reclaimed or recycled material constituents from the supplier to the gate of the manufacturer, producer or fabricator. Includes transport of related waste products.

**6-1.06C Submittals**

At least 15 days before submitting environmental product declarations, you must register on the Department’s Data Interchange for Materials Engineering. Follow the registration process at:

<https://dime.dot.ca.gov/>

Submit environmental product declarations for applicable materials or products to the Department’s Data Interchange for Materials Engineering and provide PDF copies to the Engineer. Carbon steel rebar or structural steel environmental product declarations must be mill produced.

Immediately notify the Engineer if a program operator has determined their product category rule does not allow for development of a facility-specific environmental product declaration for an applicable material or product. Include written correspondence from the program operator. If the Engineer determines the development of a facility-specific environmental product declaration for an applicable material or product cannot be achieved, no environmental product declaration will be required for that specific material or product.

**6-1.06D Quality Assurance**

Not Used

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**7 LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC**

**Add after the 1st sentence of the 1st paragraph of section 7-1.02A:**

This requirement includes, but is not limited to, applicable regulations concerning employment of labor, protection of public and employee safety and health, environmental protection, the protection of natural resources, fire protection, burning and non-burning requirements, permits, fees, and similar subjects.

**Replace the 2nd paragraph of section 7-1.02K(2) with:**

The general prevailing wage rates determined by the Director of Industrial Relations, for the county or counties in which the work is to be done, are available at the Department of Industrial Relations' website and the County of Imperial office. These wage rates are not included in the Contract Documents. Changes in

general prevailing wage determinations apply to the Contract when the Director of Industrial Relations has issued them at least 10 days before advertisement (Labor Code § 1773.6 and 8 CA Code of Regs 16204).

**Add to section 7-1.02K(2):**

All labor will be paid at not less than the minimum wage rates established by the State of California's Director of Industrial Relations (State Wage Rates).

**Replace the 6th paragraph of section 7-1.02K(3) with:**

Submit certified payroll and your signed contractor's acknowledgement to the Engineer.

**Delete the 7th through 10th paragraphs of section 7-1.02K(3).**

**Replace section 7-1.02K(6)(j)(ii) with:**

**Section 7-1.02K(6)(j)(ii) applies if a bid item for a lead compliance plan is shown on the Bid Item List.**

Regulations containing specific Cal/OSHA requirements when working with lead include 8 CA Code of Regs § 1532.1.

Submit a plan:

1. That documents your compliance program to prevent or minimize worker exposure to lead
2. Including the items listed in 8 CA Code of Regs § 1532.1(e)(2)(B)
3. Sealed and signed by a CIH with knowledge of and experience complying with 8 CA Code of Regs

Allow 7 days for review. Obtain authorization for the plan before starting any activity that presents the potential for lead exposure.

Before starting any activity that presents the potential for lead exposure to employees who have no prior training, including County employees, provide a safety training program to these employees that complies with 8 CA Code of Regs § 1532.1 and your lead compliance plan.

Submit copies of air monitoring or job site inspection reports made by or under the direction of the CIH under 8 CA Code of Regs § 1532.1 within 10 days after the date of monitoring or inspection.

Supply personal protective equipment, training, and washing facilities required by your lead compliance plan for 5 County employees.

**Payment**

Full compensation for preparation of a Lead Compliance Plan shall be considered as included in the contract price paid per lump sum for "Lead Compliance Plan" and no separate or additional payment shall be considered therefor.



**Replace Reserved in the RSS for section 7-1.02K(6)(j)(iii) with:**

Section 7-1.02K(6)(j)(iii) includes specifications for handling, removing, and disposing of unregulated earth material containing lead. Management of this material exposes workers to health hazards that must be addressed in your lead compliance plan. This material contains average lead concentrations below 80 mg/kg total lead and below 5 mg/L soluble lead and is not regulated by DTSC as a hazardous substance or a hazardous waste. This material does not require disposal at a permitted landfill or solid waste disposal facility. The RWQCB has jurisdiction over reuse of this material at locations outside the job site limits.

Unregulated earth material exists throughout the job site.

Lead is typically found within the top 2 feet of material within the highway. Reuse all of the excavated material on the right-of-way.

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

1. Cal/OSHA
2. CA RWQCB, Region 7 - Colorado River

**Replace section 7-1.04 with:**

**PUBLIC SAFETY**

You are responsible to provide for public safety. Do not construct a temporary facility that interferes with the safe passage of traffic. Control dust resulting from the work, inside and outside the Right-of-Way.

Move workers, equipment, and materials without endangering traffic.

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

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

Provide flaggers whenever necessary to ensure that the public is given safe guidance through the work zone. Flagging must comply with section 12-1 of the Standard Specifications.

At locations where traffic is being routed through construction under one-way controls, move your equipment in compliance with the one-way controls unless otherwise ordered.

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

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

Cover signs that direct traffic to a closed area. Except for work specified in Section 12 of the Standard Specifications, maintaining, and removing the covers on construction area signs is change order work.

Install temporary illumination such that the illumination and the illumination equipment do not interfere with public safety. The installation of general roadway illumination does not relieve you from furnishing and maintaining any protective devices.

All movements of workmen and construction equipment on or across lanes open to traffic must be performed in a manner that do not endanger the public. Your vehicles or other mobile equipment leaving an open traffic lane to enter the construction area must slow down gradually in advance of the location of the turnoff to give the traffic following an opportunity to slow down. When leaving a work area and entering a roadway carrying traffic, your vehicles and equipment must yield to traffic.

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

Notify the Engineer not less than 25 days and not more than 125 days before the anticipated start of an activity that will change the vertical or horizontal clearance available to traffic, including shoulders.

If vertical clearance is temporarily reduced to 15.5 feet or less, place low clearance warning signs in compliance with the current edition of the *California MUTCD* and any directions of the Engineer. Signs must comply with the dimensions, color, and legend requirements of the current edition of the *California MUTCD* and section 12-3.11 of the Standard Specifications except that the signs must have black letters and numbers on an orange retroreflective background. W12-2P signs must be illuminated so that the signs are clearly visible.

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

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

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

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

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

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

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

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

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

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

Offset the approach end of Type K temporary railing a minimum of 15 feet from the edge of an open traffic lane. Install the temporary railing on a skew toward the edge of the traffic lane of not more than 1 foot transversely to 10 feet longitudinally with respect to the edge of the traffic lane. If the 15-foot minimum offset cannot be achieved, the temporary railing must be installed on the 10 to 1 skew to obtain the maximum available offset between the approach end of the railing and the edge of the traffic lane, and an array of temporary crash cushion modules must be installed at the approach end of the temporary railing.

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

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

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

Full compensation for conforming to the provisions in this section "Public Safety," including furnishing and installing temporary railing (Type K) and temporary crash cushion modules, shall be considered as included in the contract prices paid per Lump Sum for Temporary Traffic Control and no additional compensation will be allowed therefore.

**Add before the 1st paragraph of section 7-1.05A:**

**INDEMNIFICATION**

You must indemnify and hold harmless the County, its agents, officers, and employees, against and from any and all claims, lawsuits, actions, liability, damages, losses, expenses, costs, and actual attorney's fees,

arising out of or in connection with your performance of this Contract for (1) injuries to or death of any person or persons, including your employees, and (2) injuries to or destruction of property, including the loss of use, provided that any such claim, lawsuit, action, liability, damage, loss, expense, or cost is caused in whole or in part by any negligent or intentional act or omission from you, your subcontractor, anyone directly or indirectly employed by you, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused by the passive negligence of a party indemnified hereunder.

For purposes of your obligation to defend, indemnify, and save harmless, the term State means (1) the County of Imperial, and (2) LC Engineering Consultants, Inc., including their officers, directors, employees, agents, and design professionals.

Your obligations under section 7 will survive the termination of the agreement.

**Replace section 7-1.06 with:**

**7-1.06 INSURANCE**

**7-1.06A General**

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

You shall carry Public Liability and Property Damage Liability Insurance as well as Automobile Liability Insurance at all times when work is being performed. Before beginning work, provide the Engineer a Certificate of Insurance detailing the insurance amounts, to be reviewed and approved by the County.

**7-1.06B Liability Insurance**

**7-1.06B(1) General**

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

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

Obtain insurance and submit all certificates of insurance to the County for acceptance before starting work. The certificates of insurance must contain a provision that coverage afforded under the policies will not be cancelled until at least 30 days prior written notice has been given to the County, or 10 days' notice if cancellation is due to nonpayment of premium.

Do not allow any subcontractor to commence work until the insurance required of the subcontractor has been obtained.

Any violation of the requirements of section 7 constitutes a material breach of the entire agreement.

Certificates evidencing the issuance of insurance as listed in section 7-1.06B(2) must be filed with the County within 10 days after the date of execution of this agreement by you and before the start of work.

**7-1.06B(2) Liability Limits**

**7-1.06B(2)(i) Workers' Compensation Insurance and Employer's Liability Insurance**

You and your subcontractors must obtain and maintain for all employees engaged in the work. Provide Employer's Liability Insurance in amounts not less than \$1,000,000 per occurrence.

**7-1.06B(2)(ii) Commercial General Liability (Form CG 20 10 11 85)**

You must obtain and maintain for yourself and all your employees, during the course of this agreement, Commercial General Liability Insurance (Occurrence Form CG 0001) for bodily injury and property damage in an amount of not less than \$5,000,000 combined single limit coverage per occurrence and if the policy includes an aggregate limit, the aggregate limit must be at least \$10,000,000 for the following coverage:

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

**7-1.06B(2)(iii) Automobile Liability Insurance**

Carry Comprehensive Automobile Liability Insurance, both bodily injury and property damage, on owned, hired, leased and non-owned automobiles used in connection with your business in an amount not less than \$1,000,000 combined single-limit coverage per occurrence.

**7-1.06C Subcontractors**

You must include all subcontractors as insured under the policies or furnish separate certificates and endorsements to the County for approval for each subcontractor. All insurance coverage for subcontractors is subject to each of the requirements in section 7 and must contain the additional insured endorsements required of you described under section 7.

**7-1.06D Additional Insured Endorsement**

The Commercial General Liability and Automobile Liability Insurance must each contain, or be endorsed to contain, the following provision:

The County, its officers, officials, employees, designated agents, and appointed volunteers must be named as additional insureds and must be added in the form of an endorsement to your insurance on Form CG 20 10 11 85. You must not commence work under this agreement until Form CG 20 10 11 85 is delivered to the County. This provision is not intended to extend to construction contractors contracted by the County to perform the work of improvement.

Coverage must not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under subdivision (b) of California Civil Code Section 2782.

**7-1.06E Other Insurance Provisions**

For any claims related to the work performed under this agreement, your insurance coverage must be primary insurance as to the County, its officers, officials, employees, designated agents and appointed volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, designated agents or appointed volunteers must be in excess of your insurance and must not contribute with it.

Any deductibles or self-insured retentions must be declared to and approved by the County. At the option of the County, either you must reduce or eliminate such deductibles or self-insurance retentions as they apply

to the County or you must provide a financial guarantee satisfactory to the County guaranteeing payment of losses and related investigations, claim administration, and defense and defense-related expenses.

Insurance coverage required of you under this agreement must be placed with insurers with a current A.M. Best rating of no less than A:VII.

Insurance coverage in the minimum amounts must not be construed to relieve you for liability in excess of such coverage, nor will it preclude the County from taking other action as is available to it under any other provision of this agreement or applicable law. Failure of the County to enforce in a timely manner any of the provisions of section 7 will not act as a waiver to enforcement of any of these provisions at a later date.

If any insurance coverage required by this agreement is provide on a "Claims Made", rather than "occurrence" form, you agree to maintain required coverage for a period of three years after the expiration of this agreement (Post Agreement Coverage) and any extensions. You must maintain the required Post Agreement Coverage by renewal or purchase of prior acts or tail coverage. This sub-provision is contingent upon the Post Agreement Coverage being both available and reasonably affordable in relation to the coverage provided during the term of this agreement. For purposes of interpreting this requirement, a cost not exceeding 100% of the last annual policy premium during the term of this agreement in order to purchase prior acts or tail coverage for Post Agreement Coverage must be deemed to be reasonable.

You agree to waive all rights of subrogation against the County, its officers, officials, employees, agents, and volunteers for losses arising from work performed by you under this agreement.

The County will include a provision in its Contract with the general contractor hired to perform the work of improvements requiring that the general contractor and all of its subcontractors maintain general liability insurance of not less than \$1,000,000 and that such insurance include the County, its officers, officials, employees, designated agents and appointed volunteers as additional insureds.

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**8 PROSECUTION AND PROGRESS**

**Replace section 8-1.02 with:**

The Contractor shall provide the County with a detailed schedule and detour plan indicating how the project will be constructed prior to beginning of work. Full compensation for preparation of the detailed schedule and detour plan indicating how the project will be constructed shall be considered as included in the contract prices paid for various items of work and no additional compensation will be allowed therefor.

**Replace Reserved in section 8-1.04C with:**

Section 8-1.04B does not apply.

Start job site activities on the date stated in the Notice to Proceed. If no date specified, start work within fifteen (15) calendar days of receiving the Notice to Proceed. This work shall be diligently prosecuted to completion before the expiration of **50** WORKING DAYS.

The Contractor shall pay Liquidated Damages to the County of Imperial in the sum of \$ 3,400.00 per day, for each and every calendar day's delay in finishing the work in excess of the number of working days prescribed above.

You may enter the job site only to measure controlling field dimensions and locate utilities.

You may start job site activities before the 15th day after Contract approval if you:

1. Obtain specified authorization or acceptance for each submittal before the 15th day
2. Receive authorization to start

Submit a notice 72 hours before starting job site activities.

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### **9 PAYMENT**

**Add to section 9-1.03:**

#### **PROMPT PAYMENT OF WITHHELD FUNDS TO SUBCONTRACTORS**

The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency, of the contract work, and pay retainage to the prime contractor based on these acceptances. The prime contractor, or subcontractor, shall return all monies withheld in retention from a subcontractor within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Federal law (49CFR26.29) requires that any delay or postponement of payment over 30 days may take place only for good cause and with the agency’s prior written approval. Any violation of this provision shall subject the violating prime contractor or subcontractor to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor.

**Replace *Department's* in the 5th paragraph of section 9-1.07A with:**

Caltrans

**Replace section 9-1.11 with:**

#### **9-1.11 RESERVED**

**Delete item 3 in the list in the 1st paragraph of section 9-1.16A**

**Add to section 9-1.16D:**

Mobilization shall consist of preparatory work and operations including, but not limited to, those necessary for the movement of personnel, equipment, supplies and incidentals to the Project site and removal from the Project site, for all other work and operations that must be performed or costs incurred before beginning work and after end of work on the various Contract items on the Project site.

#### **9-1.16D(4) PAYMENT**

The contract lump sum price paid for “Mobilization” shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals, and for doing all the work involved in mobilization as specified herein and no additional compensation shall be allowed therefor.

**Add to section 9-1.16E(1):**

The bid amount of the contract items of work is the maximum value the County recognizes for progress payment purposes unless approved change order work increases this amount.

After acceptance of the contract pursuant to the provisions in Section 5-1.46, "Final Inspection and Contract Acceptance," of the Standard Specifications, the amount, if any, payable for a contract item of work in excess of the maximum value for progress payment purposes for the item, will be included for payment in the first estimate made after acceptance of the contract.

No payment will be made for any materials on hand which are furnished but not incorporated in the work.

The final payment of five percent (5%) of the value of work under this contract, if unencumbered, shall be made thirty-five (35) days after acceptance of work by owner.

**Replace the paragraphs of section 9-1.16F with:**

The County will withhold 5 percent of all progress payments as retention. Retention will be paid to you on the Final Payment.

You will have the right to substitute securities for the retention under Public Contract Code § 22300. No substitution will be accepted until:

1. County approves the securities and their value,
2. Parties have entered into an escrow agreement (if the securities are to be held in escrow) in a form substantially similar to that under § 22300,
3. All documentation necessary for assignment of the securities to the County or to the escrow agent are delivered in a form satisfactory to the County.

If you have substituted securities for any of the retention, the County may request that such securities be revalued from time to time, but not more often than monthly. Such revaluation will be made by a person or entity designated by the County and approved by you. If such revaluation results in a determination that the securities have a market value less than the amount of retention for which they were substituted, then the amount of the retention required under the Contract will be increased by such difference in market value. Such increased retention will be withheld from the next progress payment(s) due to you under the Contract.

**Replace the 3rd and 4th paragraphs of section 9-1.17D(3) with:**

The Director of Public Works will make the final determination of any claims which remain in dispute after completion of claim review by the Engineer's authorized representative.

For claims of \$375,000 or less, the County and the Contractor agree to follow and comply with the mediation, arbitration, claim, civil action procedure and trial de novo provisions under California Public Contracts Code § 20104, 20104.2 and 20104.4.

**RESOLUTION OF CLAIMS**

(1) Compliance with all change order procedures is a prerequisite to filing a Public Contract Code Claim pursuant to this Section. Claims must be submitted no later than (a) 30 days after the dispute resolution process set forth in Section 5-14.3 is complete or (b) 30 days after the occurrence of the event giving rise to the claim.

In accordance with the procedures set forth in Public Contract Code Sections 9204 and 20104-20104.6, a Contractor may submit a claim by registered or certified mail with return receipt requested, for one or more of the following: (a) a time extension, including, without limitation, for relief from damages or penalties for delay assessed by the County; (b) payment



by the County of money or damages arising from work done by, or on behalf of, the Contractor pursuant to this contract and payment for which is not otherwise expressly provided or to which the Contractor is not otherwise entitled; or (c) payment of an amount that is disputed by the County.

The Contractor shall furnish reasonable documentation to support the claim, including but not limited to: 1) a clear, concise recital of the basis upon which the claim is asserted, including a designation of the provisions of the Contract upon which the claim is based, 2) a statement as to the amount of time and/or compensation sought pursuant to the claim; 3) whether the Contractor's claim arises from an ongoing occurrence, and if so a description of the specific Work activities affected by the claim, 4) a time impact analysis in the event that Contractor requests a time extension, 5) full and complete cost records supporting the amount of any claim for additional compensation and 6) a notarized certification by the Contractor as follows: "Under the penalty of law for perjury or falsification and with specific reference to the California False Claims Act, Government Code Section 12650 et seq., the undersigned hereby certifies that the information contained herein is a true, accurate and complete statement of all features relating to the claim asserted." Failure by the Contractor to provide sufficient documentation will result in denial of the claim. The County reserves the right to request additional documentation, or clarification of the documentation provided.

Upon receipt of a claim, the County will conduct a reasonable review and provide a written statement to the Contractor identifying what portion of the claim is disputed and what portion is undisputed within 45 days of receipt of the claim. The County and Contractor may, by mutual agreement, extend the 45 day time period. For any undisputed portion of a claim, the County must make payment within 60 days of its issuance of the written statement.

If the Contractor disputes the County's written statement, or if the County fails to respond, the Contractor may demand an informal conference to meet and confer for settlement of the issues in dispute. The County will then schedule the meet and confer conference within 30 days of the demand. Within 10 business days following the meet and confer conference, the County will provide a written statement identifying the portion of the claim that remain in dispute. Any payment due on an undisputed portion of the claim will be made within 60 days of the meet and confer conference.

After the meet and confer conference, any disputed portion of the claim shall be submitted to non-binding mediation. Alternatively, upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable. If mediation is unsuccessful, the parts of the claim that remain in dispute shall be subject to applicable procedures set forth below.

Failure of a public entity to respond to a claim within the time periods described above shall result in the claim being deemed rejected in its entirety. Additionally, amounts not paid in a timely manner shall bear interest at 7 percent per year.

In the event that the mediation is unsuccessful, Contractor must file a government claim pursuant to Government Code Sections 910 et seq. in order to initiate a civil action.

In any civil action filed to resolve claims, the court shall submit the matter to nonbinding mediation within 60 days following the filing or responsive pleading, provided that the parties have not already participated in mediation of the claim as outlined above. If the matter remains in dispute after nonbinding mediation, the court shall submit the matter to judicial arbitration pursuant to Code of Civil Procedure Section 1141.10 et seq. If the matter remains in dispute after judicial arbitration, the County or the Contractor may request a trial de novo.

**Replace the paragraphs of section 9-1.22 with:**

**ARBITRATION**

For claims of \$375,000 or less, the County and Contractor shall agree to follow and comply with the mediation, arbitration, claim, civil action procedure and trial de novo provisions set forth in California Public Contracts Code 20104, 20104.2 and 20104.4.

Any unresolved claims shall be resolved by litigation in a court of competent jurisdiction within the County of Imperial.

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**DIVISION II GENERAL CONSTRUCTION**

**10 GENERAL**

**Add to section 10-1.01:**

**DESCRIPTION OF WORK**

Improvements shall be along the Orchard Road, from the south edge of the bridge crossing the Alamo River to the most northerly right of way from Caltrans Interstate Highway 8. The work to be done consists in general of placing header cuts, cold plane three (3) inches of the existing A.C. pavement surface, crack cleaning and filling, tack coats, placing three (3) inches of conventional A.C. overlay over one (1) inch asphalt concrete leveling course, installing class 2 aggregate base and shoulder backing along roads and at 36 driveway access locations, watering and compacting shoulder backing, erosion control, striping, signage, construction area signs, traffic control, and any additional work as shown in the approved plans and specifications for the project. A waterproofing paving mat will be placed between the leveling course and A.C. overlay. All provisions and work shall be done in conformance with the Standard Plans and Specifications, and these Special Provisions as directed by the Engineer.

^^

**12 TEMPORARY TRAFFIC CONTROL**

**Replace *Not Used* in section 12-3.11B(5)(a) of the RSS for section 12 with:**

Provide a minimum of two Imperial County project identification signs and a minimum two additional Prime Contractor Identity and California Labor Law/EEO and OSHA signs, as shown below and in the Project Plans. The location will be determined by the Engineer.

**Replace reserved in Sections 12-3.11C(3) 12-3.11D with:**

Provide and place two of the Project Identification Signs as shown below on the jobsite. The location will be determined by the Engineer.

Before any major physical construction work readily visible to highway users is started on this contract, the contractor shall furnish, install, and maintain project identification signs at the locations designated by the Engineer. At Project conclusion the signs and posts shall become property of County and County shall remove same at County expense.

The Project Identification Sign requirements are illustrated by the drawing on the following page. Contractor shall use Project Name and confirm with Engineer prior to making.

*The contract price paid for project identification signs shall be considered included in the item of work for “Temporary Traffic Control” and shall include full compensation for furnishing, erecting and maintaining the signs, as shown on the plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer.*

California requires a Prime Contractor Identity Sign for all construction projects in the State of California. At a minimum, this sign shall contain the Prime Contractor’s name, address, telephone number, State Contractor’s License number, and an afterhours emergency telephone number in the event of an emergency.

California and Federal labor laws require that employee notices and posters be posted at all project sites that employ workers. Federal labor laws for Public Works Projects require that current Federal Wage Decisions be posted and maintained at the project site for the duration of the construction project. California labor laws for Public Works projects require that current State Wage Decisions be posted and maintained at the project site for the duration of the construction project. In addition, there are EEO, OSHA and other required information to be posted and maintained at the project site for the duration of the construction project.

The Prime Contractor Identity Sign and California Labor Law/EEO and OSHA Sign requirements are illustrated by the drawing on the following page, after the Project Identification Sign.

*The contract price paid for Prime Contractor Identity Signs shall be considered included in the item of work for “Temporary Traffic Control” and shall include full compensation for furnishing, erecting and maintaining the signs, as shown on the plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer.*

**Replace section 12-3.11D of the RSS for section 12 with:**

**PAYMENT**

Full compensation for furnishing, installing, and maintaining Construction Area Signs, including all temporary signs and object markers required for the direction of traffic through or within the project limits, Imperial County project identification signs, and project funding signs, shall be considered as included in the contract lump sum price paid for “Temporary Traffic Control” and no additional compensation shall be allowed therefor.

**Replace *Reserved* in section 12-4.02C(3)(d) with:**

Road shall remain open to traffic at all times.

Legal and safe access shall be provided and maintained to all properties throughout the construction period as required. Access shall accommodate emergency safety vehicles as required.

**Add to the end of the 1st paragraph of section 12-4.02C(7)(a):**

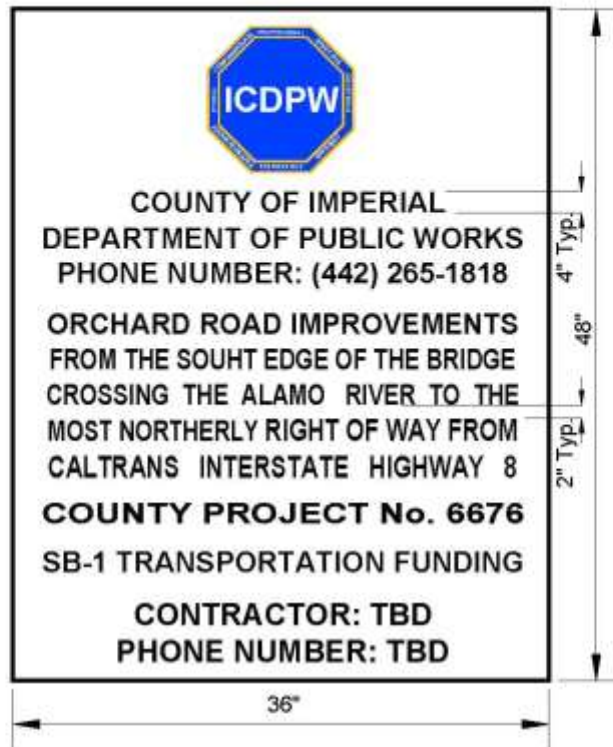
Except you may use a moving closure during traffic striping and pavement marker placement using a bituminous adhesive. Do not use a moving lane closure when grinding for recessed striping and recessed markers.

**Replace section 12-4.02D of the RSS for section 12 with:**

**PAYMENT**

Minor deviations from the requirements of this section concerning hours of work which do not significantly change the cost of the work may be permitted upon the written request of the Contractor if, in the opinion of the Engineer, public traffic will be better served and the work expedited. These deviations shall not be adopted by the Contractor until the Engineer has approved the deviations in writing. Other modifications will be made by contract change order.

Full compensation for providing the Traffic Control Plan, including furnishing , placing, maintaining, and removing temporary traffic control devices and temporary pavement striping/markings as part of the “Traffic Control System” shall be considered as included in the contract lump sum price paid for “Temporary Traffic Control” and no additional compensation shall be allowed therefor.



**NOTES:**

1. The above sign is required at all location as dictated elsewhere in these special provisions.
2. Contractor shall install a minimum of two signs, visible to the traveling public, at each end of the project.
3. The sign shall be reflectorized material on an aluminum base.
4. Sign shall be placed on a 4"x4" wood post.

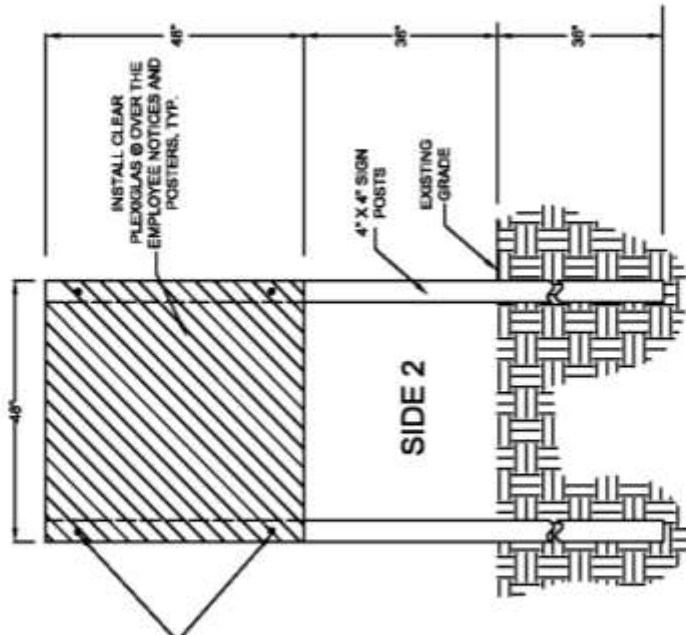
Post must be:

- Untreated fir, redwood, cedar, or pine and cut from sound timber.
- Straight and free of loose or unsound knots and other defects that would render the stakes unfit for use
- Pointed on the end to be driven into the ground

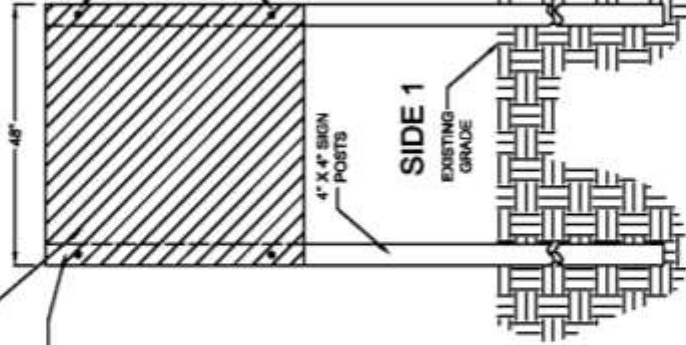
**FEDERAL AND STATE REQUIRED  
CONTRACTOR'S EMPLOYEE  
NOTICES AND POSTERS**

**CONTRACTOR  
IDENTITY SIGN  
(FACING PUBLIC)**

INSTALL 2" X 4" PLYWOOD SIGN  
BOARDS TO BOTH SIDES  
TYP.



INSTALL TWO (2) CARRIAGE  
BOLTS EACH SIDE TO SECURE  
THE 2" X 4" WOOD LEGS  
TYP.



INSTALL CLEAR  
PLEXIGLAS OVER THE  
IDENTITY SIGN.

AS A MINIMUM, PROVIDE  
FOLLOWING INFORMATION ON  
CONTRACTOR'S IDENTITY  
PRIME CONTRACTOR'S NAME  
CONTRACTOR'S OFFICE ADDRESS  
CONTRACTOR'S PHONE #  
CONTRACTOR'S LICENSE #  
CONTRACTOR'S AFTER HOURS  
EMERGENCY PHONE #

**NOTE: THE CONTRACTOR SHALL INSTALL TWO (2) SEPARATE CONTRACTOR IDENTITY AND CONTRACTOR'S EMPLOYEE NOTICE SIGNS OR USE ONE SET OF SIGN POSTS AND MOUNT THE CONTRACTOR IDENTITY AND THE CONTRACTOR'S EMPLOYEE NOTICES ON OPPOSITE SIDES OF THE SIGN POST. THE CONTRACTOR IDENTITY SIGN MUST FACE THE PUBLIC AT THE LOCATION DESIGNATED BY THE AWARDING AGENCY. IF TWO (2) SEPARATE SIGNS ARE INSTALLED, PLACE THOSE SIGNS IN CLOSE PROXIMITY.**

NOT TO SCALE

**Following are additional requirements of section 12, where applies:**

**ADDITIONAL TRAFFIC CONTROL** - At least 48 hours prior to the beginning of placement of traffic control signs and initiating the traffic control, temporary notifications shall be placed on stakes along the roadway section to be improved at a minimum of 400 foot on center on each side of the road section. The notifications shall include the impact to the roadway (Road Closed, One-Way Traffic, etc.) and the date and times the roadway will be impacted. The Contractor shall notify local authorities of the Contractor's intent to begin work at least 10 days before work is begun. The Contractor shall cooperate with local authorities relative to handling traffic through the area and shall make arrangements relative to keeping the working area clear of parked vehicles. The Contractor is advised that emergency vehicle access must be maintained during the course of work. The Contractor shall accommodate solid waste pick up throughout the community during the construction period. All cones and barricades shall be placed within the construction work zone in accordance with the approved Traffic Control Plan and in accordance to the *State of California Department of Transportation Manual of Traffic Controls for Construction and Maintenance Works Zones*, latest edition. Additional cones, lighted barricades and other traffic control devices shall be provided as requested by the engineer at no additional expense to the County of Imperial should changes be needed for the protection of the public.

The Contractor shall also comply with the Standard Specification Sections entitled, "Public Convenience," , "Public Safety," and, " Construction Area Traffic Control Devices," of the State of California Department of Transportation Standard Specifications. Nothing in these special provisions shall be construed as relieving the Contractor from the responsibilities specified in these Standard Specification Sections. Lane closures shall conform to the provisions in the "Traffic Control System for Lane Closure" section of these special provisions. Personal vehicles of the Contractor's employees shall not be parked on the traveled way including any section closed to public traffic.

Suitable methods shall be used by the Contractor to protect the A.C. resurfacing surfaces from damage by traffic until such time that the A.C. pavement surface have cured sufficiently so that the A.C. Pavement surface will not adhere to and be picked up by the tires of the vehicular traffic.

The contractor shall contact the School District 10 days prior to the commencement of construction activities within the proximity of school and school commute traffic route. The contractor shall meet and coordinate the commencement date and durations of the construction activities with the School District. The contractor shall accommodate the needs and requirements of traffic control specified by the School District.

*The costs associated with traffic control shall be included in the lump sum price paid for "Temporary Traffic Control" bid item and no additional compensation shall be provided therefore.*

*The costs associated with traffic control for striping application shall be included in the lump sum price paid for "Signing, Striping and Pavement Markings" and no additional compensation shall be provided therefore.*

**MAINTAINING TRAFFIC** -- Nothing in these special provisions shall be construed as relieving the Contractor from the responsibilities specified in Standard Specification Sections.

Lane closures shall conform to the provisions in section "Traffic Control System for Lane Closure" of these special provisions.

Personal vehicles of the Contractor's employees shall not be parked on the traveled way including any section closed to public traffic.

The Contractor shall notify local authorities of the Contractor's intent to begin work at least 10 days before work is begun. The Contractor shall cooperate with local authorities relative to handling traffic through the area and shall make arrangements relative to keeping the working area clear of parked vehicles.

The Contractor is advised that emergency vehicle access must be maintained during the course of work.

Whenever vehicles or equipment are parked on the shoulder within 6 feet of a traffic lane, the shoulder area shall be closed with fluorescent traffic cones or portable delineators placed on a taper in advance of the parked vehicles or equipment and along the edge of the pavement at 25 foot intervals to a point not less than 25 feet past the last vehicle or piece of equipment. A minimum of 9 cones or portable delineators shall be used for the taper. A C23 (Road Work Ahead) or C24 (Shoulder Work Ahead) sign shall be mounted on a portable sign stand with flags. The sign shall be placed where designated by the Engineer.

A minimum of one paved traffic lane, not less than 10 feet wide, shall be open for use by public traffic when construction operations are not actively in progress, not less than 2 of these lanes shall be open to public traffic.

Minor deviations from the requirements of this section concerning hours of work which do not significantly change the cost of the work may be permitted upon the written request of the Contractor if, in the opinion of the Engineer, public traffic will be better served and the work expedited. These deviations shall not be adopted by the Contractor until the Engineer has approved the deviations in writing. Other modifications will be made by contract change order.

*Full compensation for furnishing, placing, maintaining and removing signals and barricades shall be considered as included in the contract lump sum price for "Temporary Traffic Control" and no additional compensation shall be considered therefore.*

TRAFFIC CONTROL SYSTEM FOR LANE CLOSURES – A traffic control system shall consist of closing traffic lanes in accordance with the details shown on the plans, the provisions of the Standard Specification Sections in 12 and these special provisions. Lane closures are to be performed when practical and applicable as determined by the Engineer when the road closure detour is not in operation either before or after road closure has been implemented or when detour is no longer in place at end of work.

The provisions in this section will not relieve the Contractor from his responsibility to provide such additional devices or take such measures as may be necessary to comply with the provisions in the Standard Specification Sections related to, "Public Safety,".

If any component in the traffic control system is displaced, or ceases to operate or function as specified, from any cause, during the progress of the work, the Contractor shall immediately repair said component to its original condition or replace said component and shall restore the component to its original location.

When lane closures are made for work periods only, at the end of each work period, all components of the traffic control system, except portable delineators placed along open trenches or excavation adjacent to the traveled way, shall be removed from the traveled way and shoulder. If the Contractor so elects, said components may be stored at selected central locations, approved by the Engineer, within the limits of the County roadway and highway right of way.

The Contractor shall utilize radios and flaggers if lane closures are performed. Flaggers shall have radio contact with personnel in the work area. Maximum speed of public traffic through the traffic control zone shall be 25 miles per hour (mph).





**13 WATER POLLUTION CONTROL**

Full compensation paid per lump sum for, “Water Pollution Control”, shall include development, preparing and implementing the Water Pollution Control plan and program for this project and also includes furnishing, and implementing all materials, tools, labor, equipment and incidentals to place and construct all erosion control and best management practices required for addressing the plans, specifications and these special provisions and no additional compensation shall be made therefore

**Replace 2<sup>nd</sup> paragraph of section 13-2.01A with:**

Preparing a water pollution control program includes developing, preparing and implementing the Water Pollution Control Program (WPCP), providing a WPC manager, conducting WPC training, and monitoring, inspecting and correcting WPC practices.

**Replace section 13-2.04 with:**

**PAYMENT**

Full compensation for developing, preparing and implementing a Water Pollution Control Program shall be considered as included in the contract price paid per lump sum for “Water Pollution Control” and no separate or additional payment shall be considered therefor.

**Replace section 13-4.04 with:**

**PAYMENT**

Full compensation for providing Job Site Management shall be considered as included in the contract price paid per lump sum for “Water Pollution Control” and no separate or additional payment shall be considered therefor.

**Delete the last paragraph of section 13-6.04.**

**Replace section 13-6.04 with:**

**PAYMENT**

Full compensation for furnishing, placing, maintaining, and removing Temporary erosion control and/or fiber rolls, or other measures specified in these specifications, special provisions and as directed by the Engineer shall be considered as included in the contract price paid per lump sum for “Water Pollution Control” and no separate or additional payment shall be considered therefor.

The payment quantity for temporary fiber roll does not include the additional quantity used for overlaps.







The quantities of roadway signing, pavement markings and any permanent markers shall be measured as a lump sum, complete in place, as shown on the plans, and as specified in the Bid Item List as Signing, Striping and Pavement Markings. Payment for bid item shall constitute full compensation for all material, labor, equipment, tools, installing and removing signs, markings and markers, and incidentals as necessary as specified, and no additional compensation will be allowed.

^^

**84 MARKINGS**

**Replace section 84-2.04 of the RSS with:**

**PAYMENT**

The quantities of traffic striping and pavement markings shall be measured as a lump sum, complete in place, as shown on the plans, these special provisions, and as specified in the Bid Item List as “Signing, Striping and Pavement Markings”. Payment for bid item shall constitute full compensation for all materials, labor, equipment, tools, placing and removing striping and striping tabs, painting legends, lane lines, and pavement markings, and incidentals necessary as specified, and no additional compensation will be allowed.

^^

**DIVISION XIV**  
**DOCUMENTS TO BE EXECUTED BY BIDDER**

(Because some colored inks will not reproduce in copy machines, please use black ink to complete this proposal.)  
(DO NOT DETACH)

**PROPOSAL TO THE COUNTY OF IMPERIAL**

DEPARTMENT OF PUBLIC WORKS  
COUNTY PROJECT No. 6676

NAME OF BIDDER \_\_\_\_\_

BUSINESS P.O. BOX \_\_\_\_\_

CITY, STATE, ZIP \_\_\_\_\_

BUSINESS STREET ADDRESS \_\_\_\_\_

*(Please include even if P.O. Box used)*

CITY, STATE, ZIP \_\_\_\_\_

TELEPHONE NO:      AREA CODE (      ) \_\_\_\_\_

FAX NO:              AREA CODE (      ) \_\_\_\_\_

CONTRACTOR LICENSE NO. \_\_\_\_\_

EMAIL ADDRESS \_\_\_\_\_

The work for which this proposal is submitted is for construction in conformance with the special provisions (including the payment of not less than the State general prevailing wage rates or Federal minimum wage rates), the project plans described below, including any addenda thereto, the contract annexed hereto, and also in conformance with the 2018 California Department of Transportation Standard Plans, Standard Specifications, and the Labor Surcharge and Equipment Rental Rates in effect on the date the work is accomplished.

The special provisions for the work to be done are dated May 16, 2022 and are entitled:

**COUNTY OF IMPERIAL  
DEPARTMENT OF PUBLIC WORKS**

**NOTICE TO BIDDERS  
SPECIAL PROVISIONS, PROPOSAL AND BID BOOK FOR**

**ORCHARD ROAD IMPROVEMENTS FROM STATE ROUTE 7 TO ALAMO RIVER (CITY OF  
HOLTVILLE LIMITS); County of Imperial Project No. 6676**

The project plans for the work to be done were approved: May 16, 2022 and are entitled:

**ORCHARD ROAD IMPROVEMENTS FROM STATE ROUTE 7 TO ALAMO RIVER (CITY OF  
HOLTVILLE LIMITS)  
County of Imperial Project No. 6676**

Bids are to be submitted for the entire work. The amount of the bid for comparison purposes will be the total of all items.



The bidder shall set forth for each unit basis item of work an item price and a total for the item, and for each lump sum item a total for the item, all in clearly legible figures in the respective spaces provided for this purpose. In the case of unit basis items the amount set forth under the "Total" column shall be the extension of the item price bid on the basis of the estimated quantity for the item.

In case of discrepancy between the unit price and the total set forth for a unit basis item, the item price shall prevail, provided in (a) or (b), as follows:

- (a) If the amount set forth as a unit price is unreadable or otherwise unclear, or is omitted, or is the same as the amount of the entry in the item total column, then the amount set forth in the item total column for the item shall prevail and shall be divided by the estimated quantity for the item and the price thus obtained shall be the unit price;
- (b) (Decimal Errors) If the product of the entered unit price and the estimated quantity is exactly off by a factor of ten, one hundred, etc., or one-tenth, or one-hundredth, etc. from the entered total, the discrepancy will be resolved by using the entered unit price or item total, whichever most closely approximates percentage-wise the unit price or item total in the County of Imperial's Final Estimate of cost.

If both the unit price and the item total are unreadable or otherwise unclear, or are omitted, the bid may be deemed irregular. Likewise if the item total for a lump sum item is unreadable or otherwise unclear, or is omitted, the bid may be deemed irregular unless the project being bid has only a single item and a clear, readable total bid is provided.

Symbols such as commas and dollar signs will be ignored and have no mathematical significance in establishing any unit price or item total or lump sums. Written unit prices, item totals and lump sums will be interpreted according to the number of digits and, if applicable, decimal placement. Cents symbols also have no significance in establishing any unit price or item total since all figures are assumed to be expressed in dollars and/or decimal fractions of a dollar. Bids on lump sum items shall be item totals only; if any unit price for a lump sum item is included in a bid and it differs from the item total, the items total shall prevail.

The foregoing provisions for the resolution of specific irregularities cannot be so comprehensive as to cover every omission, inconsistency, error or other irregularity which may occur in a bid. Any situation not specifically provided for will be determined in the discretion of the County of Imperial, and that discretion will be exercised in the manner deemed by the County of Imperial to best protect the public interest in the prompt and economical completion of the work. The decision of the County of Imperial respecting the amount of a bid, or the existence or treatment of an irregularity in a bid, shall be final.

If this proposal shall be accepted and the undersigned shall fail to enter into the contract and furnish the 2 bonds in the sums required by the State Contract Act, with surety satisfactory to the *County of Imperial*, within 8 days, not including Saturdays, Sundays and legal holidays, after the bidder has received notice from the *County of Imperial* that the contract has been awarded, the *County of Imperial* may, at its option, determine that the bidder has abandoned the contract, and thereupon this proposal and the acceptance thereof shall be null and void and the forfeiture of the security accompanying this proposal shall operate and the same shall be the property of the *County of Imperial*.

The undersigned, as bidder, declares that the only persons or parties interested in this proposal as principals are those named herein; that this proposal is made without collusion with any other person, firm, or corporation; that he has carefully examined the location of the proposed work, the annexed proposed form of contract, and the plans therein referred to; and he proposes, and agrees if this proposal is accepted, that he will contract with the *County of Imperial*, in the form of the copy of the contract annexed hereto, to provide all necessary machinery, tools, apparatus and other means of construction, and to do all the work and furnish all the materials specified in the

contract, in the manner and time therein prescribed, and according to the requirements of the Engineer as therein set forth, and that he will take in full payment therefore the following prices, to wit:

**BID ITEM LIST**

<b>Item No.</b>	<b>Item Code</b>	<b>ITEM DESCRIPTION</b>	<b>Unit</b>	<b>Quantity</b>	<b>ITEM PRICE</b>	<b>TOTAL</b>
1	999990	MOBILIZATION	LS	1		
2	120100 120090	TEMPORARY TRAFFIC CONTROL	LS	1		
3	130100 130200 130640	WATER POLLUTION CONTROL	LS	1		
4	398200	HEADER CUT	SF	10,000		
5	398200	COLD PLANE ASPHALT CONCRETE PAVEMENT	SF	285,014		
6	374207	CRACK TREATMENTS	SF	295,014		
7	390135	1 INCH THICK LEVELING COURSE WITH 1/2 INCH HMA TYPE A AND TACK COAT	SF	295,014		
8	393004	INSTALL A TENSAR GLASPAVE 50 PAVING MAT OR APPROVED EQUAL AND TACK COAT	SF	295,014		
9	390132	3 INCH THICK A.C. OVERLAY WITH 3/4" HMA TYPE A	SF	295,014		
10	260202	4 INCH THICK SHOULDER BACKING WITH CLASS II AGGREGATE BASE.	SF	111,405		
11	260202	EXTEND SHOULDER BACKING WITH 4 INCH THICK CLASS II AGGREGATE BASE AT EXISTING ROAD ACCESS (DRIVEWAYS) TO R/W (37 SQUARE YARDS AVERAGE EACH DRIVEWAY)	EACH	36		
12	070030	LEAD COMPLIANCE PLAN	LS	1		
13	820840A	SIGNING, STRIPING AND PAVEMENT MARKINGS	LS	1		
14		SURVEYING AND CONSTRUCTION STAKING	LS	1		
15		MONUMENT PRESERVATION / PERPETUATION	LS	1		
16		TIME AND MATERIAL ALLOCATION	LS	1		

Total \_\_\_\_\_

Accompanying this proposal is \_\_\_\_\_

(NOTICE: INSERT THE WORDS "CASH(\$ \_\_\_\_\_)," "CASHIER'S CHECK,"  
"CERTIFIED CHECK," OR "BIDDER'S BOND," AS THE CASE MAY BE.)

in amount equal to at least ten percent of the total of the bid.

The names of all persons interested in the foregoing proposal as principals are as follows:

**IMPORTANT NOTICE:** *If bidder or other interested person is a corporation, state legal name of corporation, also names of the president, secretary, treasurer, and manager thereof; if a copartnership, state true name of firm, also names of all individual copartners composing firm; if bidder or other interested person is an individual, state first and last names in full.*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Licensed in conformance with an act providing for the registration of Contractors,

License No. \_\_\_\_\_ Classification(s) \_\_\_\_\_

**ADDENDA**

This Proposal is submitted with respect to the changes to the contract included in addenda number/s

\_\_\_\_\_  
*(Fill in addenda numbers if addenda have been received and insert, in this Proposal, any Engineer's Estimate sheets that were received as part of the addenda.)*

By my signature on this proposal I certify, under penalty of perjury under the laws of the State of California, that the foregoing questionnaire and statements of Public Contract Code Sections 10162, 10232 and 10285.1 are true and correct and that the bidder has complied with the requirements of Section 8103 of the Fair Employment and Housing Commission Regulations (Chapter 5, Title 2 of the California Administrative Code). By my signature on this proposal I further certify, under penalty of perjury under the laws of the State of California and the United States of America, that the Noncollusion Affidavit required by Title 23 United States Code, Section 112 and Public Contract Code Section 7106; and the Title 49 Code of Federal Regulations, Part 29 Debarment and Suspension Certification are true and correct.

Date: \_\_\_\_\_



\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature and Title of Bidder

Business Address \_\_\_\_\_

Place of Business \_\_\_\_\_

Place of Residence \_\_\_\_\_

**COUNTY OF IMPERIAL  
DEPARTMENT OF PUBLIC WORKS  
BIDDER'S BOND**

KNOW ALL MEN BY THESE PRESENTS,

We \_\_\_\_\_,  
\_\_\_\_\_, as Principal,

and \_\_\_\_\_  
as SURETY are bound unto the County of Imperial, State of California, hereafter referred to as "Obligee", in the penal sum of TEN PERCENT (10%) of THE TOTAL AMOUNT OF THE BID of the Principal submitted to the Obligee for the work described below, for the payment of which sum we bind ourselves, jointly and severally

**THE CONDITION OF THIS OBLIGATION IS SUCH, THAT:**

Whereas, the Principal is submitted the Obligee, For \_\_\_\_\_

(Copy here the exact description of work, including location as it appears on the proposal)

For which bids are to be opened at \_\_\_\_\_ on \_\_\_\_\_  
(insert place where bids will be opened) (insert date of bid opening)

NOW, THEREFORE, If the Principal is awarded the contract and, within the time and manner required under the specifications, after the prescribed forms are presented to him for signature, enters into a written contract, in the prescribed form, in accordance with the bid, and files two bonds with the Obligee, one to guarantee faithful performance of the contract and the other to guarantee payment for labor and materials, as required by law, then this obligation shall be null and void; otherwise, it shall be and remain in full force.

In the event suit is brought upon this bond by the Obligee and judgment is recovered, the Surety shall pay all costs incurred by the Obligee in such suit, including a reasonable attorney's fee to be fixed by the court.

Dated: \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Principal

Surety

By \_\_\_\_\_  
Attorney-in-fact

**CERTIFICATE OF ACKNOWLEDGEMENT**

State of California  
County of Imperial, SS

On this \_\_\_\_\_ Day of \_\_\_\_\_ in the year 20\_\_\_\_ before me \_\_\_\_\_,  
\_\_\_\_\_, personally appeared \_\_\_\_\_, personally known to me  
(or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument as the attorney-in-fact of \_\_\_\_\_, and acknowledged to me that he (she) subscribed the name of the said company thereto as surety, and his (her) own name as attorney-in-fact.

(SEAL)

\_\_\_\_\_  
Notary Public

**PUBLIC CONTRACT CODE SECTION 10162 QUESTIONNAIRE**

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

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

Yes \_\_\_\_\_ No \_\_\_\_\_

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

-----

**PUBLIC CONTRACT SECTION 10232 STATEMENT**

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

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

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

**PUBLIC CONTRACT CODE SECTION 10285.1 STATEMENT**

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

NOTE: THE BIDDER MUST PLACE A CHECK MARK AFTER "HAS" or "HAS NOT" IN ONE OF THE BLANK SPACES PROVIDED.

THE ABOVE STATEMENT IS PART OF THE PROPOSAL. SIGNING THIS PROPOSAL ON THE SIGNATURE PORTION THEREOF SHALL ALSO CONSTITUTE SIGNATURE OF THIS STATEMENT.

BIDDERS ARE CAUTIONED THAT MAKING A FALSE CERTIFICATION MAY SUBJECT THE CERTIFIER TO CRIMINAL PROSECUTION.

**NONCOLLUSION AFFIDAVIT TO BE EXECUTED  
BY BIDDER AND SUBMITTED WITH BID**

(Title 23 United States Code Section 112 and  
Public Contract Code 7106)

**To the County of Imperial  
Department of Public Works**

In conformance with Title 23 United States Code Section 112 and Public Contract Code 7106 the bidder declares 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 therefor, 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.

Note:           The above Non-collusion Affidavit is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Non-collusion Affidavit.  
Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

## EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

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

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

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

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

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Signature



## DEBARMENT AND SUSPENSION CERTIFICATION

TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29

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

- is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency;
- has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal agency within the past 3 years;
- does not have a proposed debarment pending; and
- has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

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

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

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

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

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**DISCLOSURE OF LOBBYING ACTIVITIES**

COMPLETE THIS FORM TO DISCLOSE LOBBYING ACTIVITIES PURSUANT TO 31 U.S.C. 1352

<p><b>1. Type of Federal Action:</b></p> <p><input type="checkbox"/> a. contract  <input type="checkbox"/> b. grant  <input type="checkbox"/> c. cooperative agreement  <input type="checkbox"/> d. loan  <input type="checkbox"/> e. loan guarantee  <input type="checkbox"/> f. loan insurance</p>	<p><b>2. Status of Federal Action:</b></p> <p><input type="checkbox"/> a. bid/offer/application  <input type="checkbox"/> b. initial award  <input type="checkbox"/> c. post-award</p>	<p><b>3. Report Type:</b></p> <p><input type="checkbox"/> a. initial  <input type="checkbox"/> b. material change</p> <p><b>For Material Change Only:</b>                  year _____ quarter _____                  date of last report _____</p>
<p><b>4. Name and Address of Reporting Entity</b></p> <p><input type="checkbox"/> Prime      <input type="checkbox"/> Subawardee                  Tier _____, if known</p> <p>Congressional District, if known _____</p>	<p><b>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</b></p> <p>Congressional District, if known _____</p>	
<p><b>6. Federal Department/Agency:</b></p>	<p><b>7. Federal Program Name/Description:</b></p> <p>CFDA Number, if applicable _____</p>	
<p><b>8. Federal Action Number, if known:</b></p>	<p><b>9. Award Amount, if known:</b></p>	
<p><b>10. a. Name and Address of Lobby Entity</b>                  (If individual, last name, first name, MI)</p>	<p><b>b. Individuals Performing Services</b> (including address if different from No. 10a)                  (last name, first name, MI)</p>	
(attach Continuation Sheet(s) if necessary)		
<p><b>11. Amount of Payment (check all that apply)</b></p> <p>\$ _____ <input type="checkbox"/> actual    <input type="checkbox"/> planned</p>	<p><b>13. Type of Payment (check all that apply)</b></p> <p><input type="checkbox"/> a. retainer  <input type="checkbox"/> b. one-time fee  <input type="checkbox"/> c. commission  <input type="checkbox"/> d. contingent fee  <input type="checkbox"/> e. deferred  <input type="checkbox"/> f. other, specify _____</p>	
<p><b>12. Form of Payment (check all that apply):</b></p> <p><input type="checkbox"/> a. cash  <input type="checkbox"/> b. in-kind; specify: nature _____                  value _____</p>		
<p><b>14. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 11:</b></p> <p>(attach Continuation Sheet(s) if necessary)</p>		
<p><b>15. Continuation Sheet(s) attached:</b>    Yes <input type="checkbox"/>    No <input type="checkbox"/></p>		
<p><b>16. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying reliance was placed by the tier above when his transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</b></p>		
		<p>Signature: _____                  Print Name: _____                  Title: _____                  Telephone No.: _____ Date: _____</p>
<p><b>Federal Use Only:</b></p>		<p>Authorized for Local Reproduction Standard Form - L.L.L.</p>

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

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of covered Federal action or a material change to previous filing pursuant to title 31 U.S.C. section 1352. The filing of a form is required for such payment or agreement to make payment to lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress an officer or employee of Congress or an employee of a Member of Congress in connection with a covered Federal action. Attach a continuation sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence, the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last, previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District if known. Check the appropriate classification of the reporting entity that designates if it is or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the first tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee" then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organization level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identification in item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract grant, or loan award number, the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitments for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influenced the covered Federal action.  
(b) Enter the full names of the individual(s) performing services and include full address if different from 10 (a). Enter Last Name, First Name and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box. Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box. Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity not just time spent in actual contact with Federal officials. Identify the Federal officer(s) or employee(s) contacted or the officer(s) employee(s) or Member(s) of Congress that were contacted.
15. Check whether or not a continuation sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name title and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

SF-LLL-Instructions Rev 06-04-01a/END/EP

The Bidder shall list the name and address, Contractor license number, and description of portion of work subcontracted of each subcontractor to whom the Bidder proposes to subcontract portions of the work, as required by the provisions of the Standard Specifications and of the special provisions.

**LIST OF SUBCONTRACTORS**

Business Name and Location	California Contractor License Number	Description of Portion of Work	Bid Items Numbers	Percentage of Bid Item Subcontracted

*(THE BIDDER'S EXECUTION ON THE SIGNATURE PORTION OF THIS PROPOSAL SHALL ALSO CONSTITUTE AN ENDORSEMENT AND EXECUTION OF THOSE CERTIFICATIONS WHICH ARE A PART OF THIS PROPOSAL)*

**DIVISION XV  
DOCUMENTS TO BE EXECUTED BY  
THE SUCCESSFUL BIDDER  
(FOR INFORMATION ONLY)**

## MINIMUM INSURANCE AMOUNTS

Construction contract (Agreement for Services) form and content is included.

### Insurance Minimum Amounts \*

<u>Insurance</u>	<u>Minimum Limit *</u>
Workers Compensation, Coverage A	Statutory
Employers Liability, Coverage B	\$1 million
Comprehensive General Liability (Including Contractual Liability):	
Bodily Injury	\$5 million per occurrence \$10 million aggregate
Property Damage	\$5 million per occurrence \$10 million aggregate
Comprehensive Automobile Liability (Owned, hired & non-owned vehicles)	
Bodily Injury	\$1 million per occurrence
Property Damage	\$1 million per occurrence

An endorsement covering any explosion collapse and underground exposures, "XCU", in the Commercial General Liability policy is required.

\*Minimums subject to additional review after bid opens.

1 **AGREEMENT FOR CONSTRUCTION SERVICES**

2 «Contractor\_Business\_Name»

3 THIS AGREEMENT FOR CONSTRUCTION SERVICES (“Agreement”), made and entered into  
4 effective the \_\_\_\_ day of \_\_\_\_\_, 2021, by and between the COUNTY OF IMPERIAL, a political  
5 subdivision of the State of California, through its Department of Public Works (“COUNTY”) and  
6 «Contractor\_Business\_Name», a «Contractor\_Business\_Type» licensed to do business within the state of  
7 California (“CONTRACTOR”) (individually, “Party;” collectively, “Parties”) shall be as follows:

8 **RECITALS**

9 **WHEREAS**, COUNTY desires to retain a qualified individual, firm or business entity to provide  
10 professional construction services for Imperial County Project Number «Project\_Number»,  
11 «Project\_Name» (“Project”); and

12 **WHEREAS**, COUNTY wishes to engage CONTRACTOR for performance of such services as are  
13 provided for herein and CONTRACTOR is willing to accept such engagement.

14 **NOW, THEREFORE**, COUNTY and CONTRACTOR have and hereby agree to the following:

15 **1. DEFINITIONS.**

16 **1.1.** “Invitation for Bid” shall mean the document entitled, “«Name\_of\_RFP»,” dated  
17 «Date\_of\_RFP», which includes all special notices, addendums, exhibits and Plans and  
18 Specifications as defined in Paragraph 1.3. The Invitation for Bid is attached hereto as  
19 **Exhibit “A”** and incorporated herein as though fully set forth.

20 **1.2.** “Proposal” shall mean CONTRACTOR’s document entitled “«Name\_of\_Proposal»,”  
21 dated «Date\_of\_Proposal» and submitted to the Clerk of the Board. The Proposal is  
22 attached hereto as **Exhibit “B”** and incorporated herein as though fully set forth.

23 **1.3.** “Plans and Specifications” shall mean the plans and specifications approved by the  
24 Director of Public Works, or his/her designee, for Project Number «Project\_Number».  
25 While COUNTY is responsible for the completeness and accuracy of the Plans and  
26 Specifications for the Project, CONTRACTOR is required to review the Plans and  
27 Specifications and promptly report any errors or omissions to COUNTY.

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**2. CONTRACT COORDINATION**

**2.1.** The Director of Public Works or his/her designee shall be the representative of COUNTY for all purposes under this Agreement. The Director of Public Works or his/her designee is hereby designated as the Contract Manager for COUNTY. He/she shall supervise the progress and execution of this Agreement.

**2.2.** CONTRACTOR shall assign a single Contract Manager to have overall responsibility for the progress and execution of this Agreement. Should circumstances or conditions subsequent to the execution of this Agreement require a substitute Contract Manager for any reason, the Contract Manager designee shall be subject to the prior written acceptance and approval of COUNTY's Contract Manager.

**3. SCOPE OF WORK TO BE PERFORMED BY CONTRACTOR**

**3.1.** CONTRACTOR shall furnish all work, labor, tools, equipment, materials, supervision, scheduling, coordination and contract administration necessary to construct and complete the Project in a good, expeditious, workman-like and substantial manner under the terms of and in full and complete compliance with this Agreement ("Work").

**3.2.** CONTRACTOR shall comply with and perform work consistent with all terms, conditions and requirements of the Plans, Specifications, the Invitation for Bids and this Agreement.

**3.3.** All described work shall be constructed, installed, placed and performed in conformance with the Plans and Specifications and all Special Provisions contained therein and as directed by COUNTY's engineer.

**3.4.** In the event of a conflict among this Agreement, the Invitation for Bid and the Proposal, the Invitation for Bid shall take precedence over the Proposal and this Agreement shall take precedence over both.

**3.5.** CONTRACTOR shall perform such other tasks as necessary and proper for the full performance of the obligations assumed by CONTRACTOR hereunder; including but not limited to any additional work or change orders agreed upon pursuant to written authorization as described in Section 5. Proposed additional work or change order requests,



1 when applicable, will be attached and incorporated herein under **Exhibit "B"** (as "B-1," "B-  
2 2," etc.).

3 **4. TRENCHING REQUIREMENTS AND UTILITY RELOCATION.**

4 **4.1. Four Feet (4') Below the Surface.** In the event the Project involves digging trenches or  
5 other excavations that extend deeper than four feet (4') below the surface,  
6 CONTRACTOR shall:

7 **4.1.1.** Promptly, and before the following conditions are disturbed, notify COUNTY, in  
8 writing, of any:

- 9 (a) Material that CONTRACTOR believes may be material that is hazardous  
10 waste, as defined in Health & Safety Code §25117, that is required to be  
11 removed to a Class I, Class II or Class III disposal site in accordance with  
12 provisions of existing law;
- 13 (b) Subsurface or latent physical conditions at the site differing from those  
14 indicated by information about the site made available to bidders prior to  
15 the deadline for submitting bids; and
- 16 (c) Unknown physical conditions at the site of any unusual nature, different  
17 materially from those ordinarily encountered and generally recognized as  
18 inherent in work of the character provided for in the Agreement.

19 **4.1.2.** In response to any written notice generated pursuant to Subparagraph 4.1.1,  
20 COUNTY shall promptly investigate the conditions, and if it finds that the  
21 conditions do materially so differ, or do involve hazardous waste, and cause a  
22 decrease or increase in CONTRACTOR's cost of, or the time required for,  
23 performance of any part of the Work, COUNTY shall issue a change order under  
24 the procedures described in this Agreement.

25 **4.1.3.** In the event that a dispute arises between COUNTY and CONTRACTOR whether  
26 the conditions materially differ, or involve hazardous waste, or cause a decrease  
27 or increase in CONTRACTOR's cost of, or time required for, performance of any  
28 part of the Work, CONTRACTOR shall not be excused from any scheduled

1 completion date provided for by this Agreement, but shall proceed with all Work  
2 to be performed under this Agreement. CONTRACTOR shall retain any and all  
3 rights provided either by contract or by law which pertain to the resolution of  
4 disputes and protests between the Parties.

5 **4.2. Trenching Requirements – Project in Excess of Twenty-Five Thousand Dollars (\$25,000)**  
6 **and Five Feet (5') Below the Surface.** For projects involving both an estimated expenditure  
7 in excess of twenty-five thousand dollars (\$25,000) and the excavation of any trench five  
8 feet (5') or more in depth, CONTRACTOR shall submit a detailed plan showing the  
9 design of shoring, bracing, sloping or other provisions to be made for worker protection  
10 from the hazard of caving ground during the excavation of such trench. The plan must  
11 be accepted by COUNTY (or by a registered civil or structural engineer, employed by  
12 COUNTY, to whom authority to accept has been delegated) in advance of excavation. If  
13 such plan varies from the shoring system standards, the plan shall be prepared by a  
14 registered civil or structural engineer. Nothing in this Paragraph shall allow  
15 CONTRACTOR to use a shoring, sloping, or protective system less effective than that  
16 required by California Construction Safety Orders. Further, nothing in this Paragraph  
17 shall be construed to impose tort liability on COUNTY or any of its employees.

18 **4.3. Utilities Relocation.** In the event that CONTRACTOR, in the scope of work, encounters  
19 utilities not shown on COUNTY'S plans, COUNTY shall compensate CONTRACTOR  
20 for utilities relocation work. COUNTY shall also waive liquidated damages for any delay  
21 that occurs as a result of said encounter and/or relocation of utilities.

22 **5. CHANGE ORDERS.**

23 **5.1. Change Orders.** CONTRACTOR shall make no changes to the Work to be performed  
24 pursuant to this Agreement, including but not limited to additions, deletions, modifications  
25 or substitutions, nor shall CONTRACTOR perform any extra work (collectively, "Change  
26 Order Work") without the prior written consent of COUNTY. If CONTRACTOR  
27 encounters conditions it considers different from those described in **Exhibit "A"** to this  
28 Agreement, CONTRACTOR may request a change order in conformance with COUNTY'S

1 standard procedure ("Change Order"). If COUNTY approves the request, CONTRACTOR  
2 will execute a Change Order and CONTRACTOR's execution of the Change Order shall  
3 confirm approval thereof. COUNTY may order additional work, and CONTRACTOR shall  
4 perform such changes in the Work as directed by COUNTY in any Change Order prepared  
5 by CONTRACTOR. COUNTY's rights to eliminate portions of the Work or to initiate a  
6 Change Order shall not be limited in any way. The Change Order shall be in writing and  
7 shall include:

8 **5.1.1.** Any and all supporting documents and drawings depicting the source and location  
9 of the desired change, and explain in detail the field conditions and reasons for the  
10 requested change;

11 **5.1.2.** Any change or adjustment to the compensation set forth in this Agreement as a result  
12 of changes in the Work based on a lump sum or time and material basis, as may be  
13 directed by COUNTY; and

14 **5.1.3.** Any request for adjustments to time for completion of the Project.

15 **5.2.** Payment for Change Order Work. CONTRACTOR shall not be entitled to receive any  
16 compensation for work, labor, materials or changes of any kind, regardless of whether  
17 ordered by COUNTY or any of its representatives, unless a Change Order has been  
18 submitted in writing and approved prior to the commencement of any Change Order Work  
19 as described above. If the changes are required by any inspecting governmental agencies or  
20 utility companies, or are otherwise required to comply with any codes, laws, rules or  
21 regulations, including those set forth in this Agreement, then CONTRACTOR shall not be  
22 entitled to any increases in the compensation set forth in this Agreement or other  
23 compensation as a result of the changes.

24 **5.3.** Disputed Change Order Work. Any dispute concerning the performance of such Change  
25 Order Work or the amount of compensation to be paid to CONTRACTOR by COUNTY  
26 shall not affect CONTRACTOR's obligation to perform such Change Order Work.  
27 CONTRACTOR agrees that it shall timely complete all Change Order Work even if there  
28 shall be a dispute between CONTRACTOR and COUNTY over the amount or scope of the

1 Change Order Work. CONTRACTOR shall have the right to be compensated for any  
2 undisputed Change Order Work amounts as determined to be undisputed in COUNTY's  
3 sole discretion.

4 **5.4. Authorized Representative.** No Change Order shall be valid or binding against COUNTY  
5 unless such Change Order has been executed by COUNTY's designated representative, who  
6 is the Director of Public Works. COUNTY shall notify CONTRACTOR in writing if the  
7 designated representative is changed.

8 **5.5. Limits.** When applicable, the authority to execute a Change Order on this Project shall not  
9 exceed the amount allowed by law pursuant to Public Contract Code sections 20137-20142  
10 et seq. Where Change Orders are in an amount between ten percent (10%) and twenty-five  
11 percent (25%) of the amount set forth in this Agreement and based on a need for additional  
12 quantities due to an increase in the unit quantities required to complete the project in excess  
13 of the COUNTY's Engineer's estimate of unit quantities as set forth in the Invitation to Bid,  
14 CONTRACTOR shall be paid pursuant to Public Contract Code sections 20143 and 20139  
15 and section 4 of the Standard Specifications, State of California, Business, Transportation  
16 and Housing Agency, May 2006 Issued by the Department of Transportation ("Caltrans  
17 Standard Specifications") referred to in **Exhibit "A"** and incorporated herein by reference.

18 **6. REPRESENTATIONS BY CONTRACTOR**

19 **6.1.** CONTRACTOR understands and agrees that COUNTY has limited knowledge in the  
20 construction specified in the description of work. CONTRACTOR has represented itself to  
21 be expert in these fields and understands that COUNTY is relying upon such representation.

22 **6.2.** CONTRACTOR represents and warrants that it is a lawful entity possessing all required  
23 licenses and authorities to do business in the State of California and perform all aspects  
24 of this Agreement.

25 **6.3.** CONTRACTOR shall not commence any work under this Agreement or provide any  
26 other services, or materials, in connection therewith until CONTRACTOR has received  
27 written authorization from the Director of Public Works, or his/her designee ("Notice to  
28 Proceed") to do so.

1           **6.4.** CONTRACTOR represents and warrants that the people executing this Agreement on  
2           behalf of CONTRACTOR have the authority of CONTRACTOR to sign this Agreement  
3           and bind CONTRACTOR to the performance of all duties and obligations assumed by  
4           CONTRACTOR herein.

5           **6.5.** CONTRACTOR represents and warrants that any employee, contractor, subcontractor and  
6           agent who will be performing any of the duties and obligations of CONTRACTOR herein  
7           possess all required licenses and authorities, as well as the experience and training, to  
8           perform such tasks.

9           **6.6.** CONTRACTOR represents and warrants that the allegations contained in its Proposal are  
10           true and correct.

11           **6.7.** CONTRACTOR understands that COUNTY considers the representations made herein  
12           to be material and would not enter into this Agreement with CONTRACTOR if such  
13           representations were not made.

14           **6.8.** Retention and Access of Books and Records. CONTRACTOR represents and warrants  
15           that it shall maintain books, records, documents, reports and other materials developed  
16           under this Agreement as follows:

17           **6.8.1.** CONTRACTOR shall hold and possess as the property of COUNTY all papers,  
18           books, files, correspondence and other records of all kinds which at any time shall  
19           come into its possession or under its control relating only to services performed  
20           by CONTRACTOR under this Agreement for a minimum period of five (5) years,  
21           or for any longer period required by law, from the date said papers came into the  
22           possession of CONTRACTOR pursuant to this Agreement.

23           **6.8.2.** Any records or documents required to be maintained by CONTRACTOR  
24           pursuant to this Agreement shall be made available to COUNTY for inspection or  
25           audit, at any time during CONTRACTOR's regular business hours provided  
26           COUNTY provides CONTRACTOR with seven (7) days advanced written or oral  
27           notice. Copies of such documents shall, at no cost to COUNTY, be provided to  
28           COUNTY for inspection at CONTRACTOR's address indicated for receipt of

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notices under this Agreement.

**6.8.3.** CONTRACTOR shall surrender all papers maintained by CONTRACTOR pursuant to Subparagraph 6.8.1 of this Agreement within thirty (30) days of termination of this Agreement.

**6.8.4.** CONTRACTOR represents and warrants that it has not been engaged by, nor will it be engaged by and owes no duty of performance to any other person or entity that would constitute a conflict. For breach or violation of this warranty, COUNTY shall amongst other remedies at law, have the right to terminate this Agreement without liability, or at its sole discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage brokerage fee, gift or contingent fee paid or received from another entity or person.

**6.9.** CONTRACTOR shall perform pursuant to this Agreement in accordance with and in full compliance with all applicable Federal, State and local statues, rules, regulations and policies and procedures, regardless of whether they are expressly set forth in this Agreement. It is understood that in the event COUNTY is investigated or audited by any State or Federal governmental agency, or any other recognized investigative/auditing entity, CONTRACTOR shall fully cooperate with such agencies' reasonable and lawful request for information.

**7. TERM OF AGREEMENT**

This Agreement shall commence on the date first written above and shall remain in effect until the services provided as outlined in Section 3, ("SCOPE OF WORK TO BE PERFORMED BY CONTRACTOR"), have been completed, unless otherwise terminated as provided for in this Agreement.

**8. COMPENSATION**

The total compensation payable under this Agreement shall be in accordance with the item prices incorporated within the Proposal submitted by CONTRACTOR for labor, materials and all other services related to the performance of this Agreement, attached hereto as **Exhibit "B"** and incorporated herein as though fully set forth. The total compensation payable under this Agreement shall not exceed



1 «Cost\_of\_Original\_Contract».

2 **9. PAYMENT AND RETENTION OF FUNDS.**

3 COUNTY shall pay CONTRACTOR for completed and approved services upon presentation  
4 and approval of its itemized billing, subject to the following.

5 **9.1. Retention.**

6 **9.1.1.** In accordance with Cal. Pub. Contract Code §§ 7201 and 9203, COUNTY shall  
7 generally retain five percent (5%) of the total compensation payable under this  
8 Agreement until the Work to be performed has been completed in accordance with  
9 this Agreement, as determined by COUNTY, and payment in full of all of  
10 CONTRACTOR's subcontractors has been certified.

11 **9.1.2.** The 5% retention amount may be exceeded if the COUNTY's Board of Supervisors  
12 has approved a finding, during a properly noticed and normally scheduled public  
13 hearing conducted either prior to or concurrent with authorizing this Project to go  
14 out to bid, that the Project is substantially complex and therefore requires a higher  
15 retention amount than 5%. Should the retention amount exceed 5% for this Project,  
16 then the actual retention amount will be listed in the Plans and Specifications, along  
17 with the findings justifying the increased retention amount.

18 **9.2. Substitution of Retention.**

19 **9.2.1.** CONTRACTOR may elect to substitute securities for any retention of funds by  
20 COUNTY to ensure performance under this Agreement. At the request and  
21 expense of CONTRACTOR, securities equivalent to the amount retained shall be  
22 deposited with the COUNTY, or with a state or federally chartered bank in this state  
23 as the escrow agent, who shall then return the securities to CONTRACTOR once  
24 the Work to be performed has been completed in accordance with this Agreement,  
25 as determined by COUNTY, and payment in full of all of CONTRACTOR's  
26 subcontractors has been certified.

27 **9.2.2.** Alternatively, CONTRACTOR may request and COUNTY shall make payment of  
28 retentions earned directly to the escrow agent at the expense of CONTRACTOR.

1 CONTRACTOR, at its sole cost and expense, may direct the investment of the  
2 payments into securities, and CONTRACTOR shall receive the interest earned on  
3 the investments upon the same terms provided for in this Section for securities  
4 deposited by CONTRACTOR. Once the Work to be performed has been  
5 completed in accordance with this Agreement, as determined by COUNTY, and  
6 payment in full of all of CONTRACTOR's subcontractors has been certified,  
7 CONTRACTOR shall receive from the escrow agent all securities, interest, and  
8 payments received by the escrow agent from COUNTY, pursuant to the terms of  
9 this Section.

10 **9.2.3.** Securities eligible for investment under this Section shall include those listed in Cal.  
11 Gov. Code § 16430, bank or savings and loan certificates of deposit, interest-bearing  
12 demand deposit accounts, standby letters of credit, or any other security mutually  
13 agreed to by COUNTY and CONTRACTOR. CONTRACTOR shall be the  
14 beneficial owner of any securities substituted for retained funds and shall receive  
15 any interest thereon.

16 **9.2.4.** Substitution of securities shall be conducted through an Escrow Agreement  
17 substantially similar to that found in Cal. Pub. Contract Code § 22300(f).

18 **9.2.5.** Notwithstanding any other provision in this Section, substitution of securities is  
19 prohibited where funding for the Project, in whole or in part, will be provided by  
20 the Farmers Home Administration of the United States Department of Agriculture  
21 pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. Sec. 1921  
22 et seq.), or where otherwise disallowed by federal law.

23 **10. METHOD OF PAYMENT.**

24 **10.1.** CONTRACTOR shall at any time prior to the fifteenth (15<sup>th</sup>) day of any month, submit  
25 to COUNTY's Director of Public Works or his/her designee, a complete and accurate  
26 written claim for compensation for services performed. The claim shall be in a format  
27 approved by COUNTY. COUNTY shall make no payment prior to the claims being  
28 approved in writing by the Director of Public Works or his/her designee.



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- 10.2. After determining that the claim is a proper payment request, the Director of Public Works, or his/her designee, shall submit to COUNTY's Auditor/Controller undisputed and properly submitted claims approved for payment within ten (10) days following the date the claim was submitted to his/her Department.
- 10.3. CONTRACTOR may expect to receive payment within a reasonable time thereafter and in any event in the normal course of business within thirty (30) days after the undisputed and properly submitted claim is submitted.
- 10.4. Any claim determined to be an improper payment request shall be returned to CONTRACTOR as soon as practicable, but not later than seven (7) days, after receipt with a written explanation as to why the claim is an improper request for payment.
- 10.5. In order for prompt payment to be made by COUNTY pursuant to Public Contract Code §20104.50, CONTRACTOR must properly fill out all written claims for compensation for services performed.
- 10.6. COUNTY shall pay interest at the legal rate set forth in Code of Civil Procedure §685.010 in the event payment is not made within thirty (30) days of an undisputed properly submitted request.

**11. INDEMNIFICATION.**

- 11.1. CONTRACTOR agrees to the fullest extent permitted by law to indemnify, defend, protect and hold COUNTY and its representatives, officers, directors, designees, employees, agents, successors and assigns harmless from any and all claims, expenses, liabilities, causes of action, demands, losses, penalties, attorneys' fees and costs, in law or equity, of every kind and nature whatsoever arising out of or in connection with CONTRACTOR's negligent acts and omissions or willful misconduct under this Agreement ("Claims"), whether or not arising from the passive negligence of COUNTY, but does not include Claims that are finally determined to be the result of the sole negligence or willful misconduct of COUNTY.
- 11.2. CONTRACTOR agrees to defend with counsel acceptable to COUNTY, indemnify and hold COUNTY harmless from all Claims, including but not limited to:

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**11.2.1.** Personal injury, including but not limited to bodily injury, emotional injury, sickness or disease or death to persons including but not limited to COUNTY's representatives, officers, directors, designees, employees, agents, successors and assigns, subcontractors and other third parties and/or damage to property of anyone (including loss of use thereof) arising out of CONTRACTOR's negligent performance of, or willful misconduct surrounding, any of the terms contained in this Agreement, or anyone directly or indirectly employed by CONTRACTOR or anyone for whose acts CONTRACTOR may be liable;

**11.2.2.** Liability arising from injuries to CONTRACTOR and/or any of CONTRACTOR's employees or agents arising out of CONTRACTOR's negligent performance of, or willful misconduct surrounding, any of the terms contained in this Agreement, or anyone directly or indirectly employed by CONTRACTOR or anyone for whose acts CONTRACTOR may be liable;

**11.2.3.** Penalties imposed upon account of the violation of any law, order, citation, rule, regulation, standard, ordinance or statute caused by the negligent action or inaction, or willful misconduct of CONTRACTOR or anyone directly or indirectly employed by CONTRACTOR or anyone for whose acts CONTRACTOR may be liable, including but not limited to:

**(a)** Any loss of funding, penalties, fees, or other costs resulting from CONTRACTOR's failure to adhere to Disadvantaged Business Enterprise requirements and/or goals, as determined by COUNTY or such other lawful entity in charge of monitoring Disadvantaged Business Enterprise compliance;

**(b)** Any loss of funding, penalties, fees, or other costs resulting from CONTRACTOR's failure to adhere to prevailing wage requirements, as determined by COUNTY, the California Department of Industrial Relations, or such other lawful entity in charge of monitoring prevailing wage compliance;

1                   **11.2.4.** Infringement of any patent rights which may be brought against COUNTY arising  
2                   out of CONTRACTOR's work;

3                   **11.2.5.** Any violation or infraction by CONTRACTOR of any law, order, citation, rule,  
4                   regulation, standard, ordinance or statute in any way relating to the occupational  
5                   health or safety of employees; and

6                   **11.2.6.** Any breach by CONTRACTOR of the terms, requirements or covenants of this  
7                   Agreement.

8                   **11.3.** The indemnification provisions of this Agreement shall extend to Claims occurring after  
9                   this Agreement is terminated, as well as while it is in force.

10 **12. INDEPENDENT CONTRACTOR**

11                   **12.1.** In all situations and circumstances arising out of the terms and conditions of this  
12                   Agreement, CONTRACTOR is an independent contractor, and as an independent  
13                   contractor, the following shall apply:

14                   **12.2.** CONTRACTOR is not an employee or agent of COUNTY and is only responsible for the  
15                   requirements and results specified by this Agreement.

16                   **12.3.** CONTRACTOR shall be responsible to COUNTY only for the requirements and results  
17                   specified by this Agreement and except as specifically provided in this Agreement, shall  
18                   not be subject to COUNTY's control with respect to the physical actions or activities of  
19                   CONTRACTOR in fulfillment of the requirements of this Agreement.

20                   **12.4.** CONTRACTOR is not, and shall not be, entitled to receive from, or through, COUNTY,  
21                   and COUNTY shall not provide, or be obligated to provide, CONTRACTOR with  
22                   Worker's Compensation coverage or any other type of employment or worker insurance  
23                   or benefit coverage required or provided by any Federal, State or local law or regulation  
24                   for, or normally afforded to, an employee of COUNTY.

25                   **12.5.** CONTRACTOR shall not be entitled to have COUNTY withhold or pay, and COUNTY  
26                   shall not withhold or pay, on behalf of CONTRACTOR, any tax or money relating to the  
27                   Social Security Old Age Pension Program, Social Security Disability Program, or any  
28                   other type of pension, annuity, or disability program required or provided by any Federal,

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State or local law or regulation.

- 12.6. CONTRACTOR shall not be entitled to participate in, or receive any benefit from, or make any claim against any COUNTY fringe benefit program, including, but not limited to, COUNTY's pension plan, medical and health care plan, dental plan, life insurance plan, or any other type of benefit program, plan, or coverage designated for, provided to, or offered to COUNTY's employee.
- 12.7. COUNTY shall not withhold or pay, on behalf of CONTRACTOR, any Federal, State, or local tax, including, but not limited to, any personal income tax, owed by CONTRACTOR.
- 12.8. CONTRACTOR is, and at all times during the term of this Agreement shall represent and conduct itself as, an independent contractor, not an employee of COUNTY.
- 12.9. CONTRACTOR shall not have the authority, express or implied, to act on behalf of, bind or obligate COUNTY in any way without the written consent of COUNTY.

**13. INSURANCE.**

- 13.1. CONTRACTOR hereby agrees at its own cost and expense to procure and maintain, during the entire term of this Agreement and any extended term therefore, insurance in a sum acceptable to COUNTY and adequate to cover potential liabilities arising in connection with the performance of this Agreement and in any event not less than the minimum limit set forth in the "Minimum Insurance Amounts" attachment to the Plans and Specifications which are incorporated as if set forth fully herein.
- 13.2. Special Insurance Requirements. All insurance required shall:
  - 13.2.1. Be procured from California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide, acceptable to COUNTY. A rating of at least A-VII shall be acceptable to COUNTY; lesser ratings must be approved in writing by COUNTY.
  - 13.2.2. Be primary coverage as respects COUNTY and any insurance or self-insurance maintained by COUNTY shall be in excess of CONTRACTOR's insurance coverage and shall not contribute to it.

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**13.2.3.** Name COUNTY as an additional insured on all policies, except Workers' Compensation, and provide that COUNTY may recover for any loss suffered by COUNTY by reason of CONTRACTOR's negligence.

**13.2.4.** State that it is primary insurance and regards COUNTY as an additional insured and contains a cross-liability or severability of interest clause.

**13.2.5.** Not be canceled, non-renewed or reduced in scope of coverage until after thirty (30) days written notice has been given to COUNTY. However, CONTRACTOR may not terminate such coverage until it provides COUNTY with proof that equal or better insurance has been secured and is in place. Cancellation or change without the prior written consent of COUNTY shall, at the option of COUNTY, be grounds for termination of this Agreement.

**13.2.6.** If this Agreement remains in effect more than one (1) year from the date of its original execution, COUNTY may, at its sole discretion, require an increase in the amount of liability insurance to the level then customary in similar COUNTY Agreements by giving sixty (60) days notice to CONTRACTOR.

**13.3. Additional Insurance Requirements.**

**13.3.1.** COUNTY is to be notified immediately of all insurance claims. COUNTY is also to be notified if any aggregate insurance limit is exceeded.

**13.3.2.** The comprehensive or commercial general liability shall contain a provision of endorsements stating that such insurance:

- (a) Includes contractual liability;
- (b) Does not contain any exclusions as to loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to by insurers as the "XCU Hazards";
- (c) Does not contain a "pro rata" provision which looks to limit the insurer's liability to the total proportion that its policy limits bear to the total coverage available to the insured;

- (d) Does not contain an "excess only" clause which requires the exhaustion of other insurance prior to providing coverage;
- (e) Does not contain an "escape clause" which extinguishes the insurer's liability if the loss is covered by other insurance;
- (f) Includes COUNTY as an additional insured; and
- (g) States that it is primary insurance and regards COUNTY as an additional insured and contains a cross-liability or severability of interest clause.

13.4. Deposit of Insurance Policy. Promptly on issuance, reissuance, or renewal of any insurance policy required by this Agreement, CONTRACTOR shall, if requested by COUNTY, cause to be given to COUNTY satisfactory evidence that insurance policy premiums have been paid together with a duplicate copy of the policy or a certificate evidencing the policy and executed by the insurance company issuing the policy or its authorized agent.

13.5. Certificates of Insurance. Complete copies of certificates of insurance for all required coverages including additional insured endorsements shall be attached hereto as **Exhibit "C"** and incorporated herein as though fully set forth.

13.6. Additional Insurance. Nothing in this, or any other provision of this Agreement, shall be construed to preclude CONTRACTOR from obtaining and maintaining any additional insurance policies in addition to those required pursuant to this Agreement.

14. **WORKERS' COMPENSATION CERTIFICATION.**

14.1. Prior to the commencement of work, CONTRACTOR shall sign and file with COUNTY the following certification: "I am aware of the provisions of California Labor Code §§3700 et seq. which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

14.2. This certification is included in this Agreement and signature of the Agreement shall constitute signing and filing of the certificate.

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**14.3.** CONTRACTOR understands and agrees that any and all employees, regardless of hire date, shall be covered by Workers' Compensation pursuant to statutory requirements prior to beginning work on the Project.

**14.4.** If CONTRACTOR has no employees, initial here: \_\_\_\_\_.

**15. WARRANTY.**

**15.1. One Year Warranty.** CONTRACTOR agrees to provide a one-year warranty for all of its work and component parts and guarantees that all work shall be performed in a professional and workman-like manner and be free from defects. CONTRACTOR guarantees to timely correct all work performed by it under this Agreement which COUNTY determines to be defective in design, material and/or workmanship within a period of one (1) year from the date of the completion of the Work. The warranties set forth in this Agreement shall be in addition to, and not in lieu of, all other statutory and case law warranties and obligations of CONTRACTOR. CONTRACTOR expressly agrees that all warranties made by CONTRACTOR, all obligations under this Agreement and all remedies for breach of such warranties shall survive this Agreement in the event it is terminated or expires for any reason prior to the running of the full warranty periods listed above.

**15.2. Materials.** All materials furnished by CONTRACTOR shall be new, manufactured during the current year, of first quality and carrying full manufacturer's warranty. CONTRACTOR shall be responsible for any expiration of manufacturer or other warranties of material or equipment being supplied for this Agreement. CONTRACTOR guarantees that all warranties of material and equipment shall become effective when the project is accepted by COUNTY's Board of Supervisors, not at time of installation by CONTRACTOR.

**15.3. Manufacturers' Warranty Information.** CONTRACTOR agrees to promptly provide such information and maintenance recommendations to COUNTY at the inception of CONTRACTOR's work to the extent such information is reasonably available.

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1 **16. DEFAULT AND REMEDIES.**

2 **16.1. Default.** In the event that (i) CONTRACTOR files a petition requesting relief under any  
3 bankruptcy act, or is adjudged as bankrupt, or makes a general assignment for the benefit  
4 of creditors or has a receiver appointed on account of its insolvency, or (ii)  
5 CONTRACTOR refuses or is unable, for whatever reason, to supply enough properly  
6 skilled workers or proper materials to complete the Project, or (iii) CONTRACTOR fails  
7 to follow the directions of COUNTY, or (iv) CONTRACTOR fails to make prompt  
8 payment to its subcontractors and suppliers for materials or labor supplied or permits any  
9 lien to be imposed upon all or any portion of the Project, or (v) CONTRACTOR  
10 disregards any laws or orders of any public or private authority having jurisdiction over  
11 the Work or the Project, or (vi) CONTRACTOR fails to perform in accordance with any  
12 of the terms of this Agreement or breaches any provision of this Agreement, COUNTY  
13 may give notice of such failure or breach to CONTRACTOR, identifying the failure or  
14 breach of this Agreement. Should any such failure or breach continue for twenty-four  
15 (24) hours after delivery of notice without a good faith effort on the part of  
16 CONTRACTOR to commence all necessary corrective action, or should such a breach  
17 continue despite CONTRACTOR's efforts for forty-eight (48) hours, then at that time  
18 such failure shall be deemed a default by CONTRACTOR under this Agreement and  
19 COUNTY shall have all rights and remedies available at law or in equity, including the  
20 right to terminate this Agreement. Without limiting its rights and remedies, COUNTY  
21 may then proceed as follows:

22 **16.1.1.** Without terminating this Agreement or the obligations of CONTRACTOR  
23 hereunder as to all of the Work required to be performed or furnished by  
24 CONTRACTOR pursuant to this Agreement, COUNTY may require  
25 CONTRACTOR, at CONTRACTOR's expense, to cure such default(s) as may  
26 exist in the performance of CONTRACTOR's obligations hereunder within forty-  
27 eight (48) hours after such default(s) has/have occurred including but not limited  
28 to repairing, replacing and correcting material or Work determined by COUNTY



1 to be defective or not complying with the requirements of this Agreement. Should  
2 CONTRACTOR fail to timely repair, replace and/or correct non-complying or  
3 defective materials and workmanship or otherwise cure its default(s) hereunder,  
4 and in the case of emergencies in which case COUNTY may act immediately if  
5 CONTRACTOR is not available or is not responding, and without further notice,  
6 COUNTY may make required repairs, replacements and other corrections or  
7 otherwise remedy the default by CONTRACTOR pursuant to the subparagraph  
8 below.

9 **16.1.2.** Without terminating this Agreement or the obligations of CONTRACTOR  
10 hereunder as to all of the Work required to be performed or furnished by  
11 CONTRACTOR pursuant to this Agreement, COUNTY may engage another  
12 contractor to perform such portion of CONTRACTOR's Work required pursuant  
13 to this Agreement or furnish any materials or other items required hereunder as  
14 COUNTY in its sole discretion may deem necessary to avoid delay in the progress  
15 of the Work, and in connection therewith, COUNTY may perform such Work or  
16 any portion thereof itself or have the same performed by others and COUNTY  
17 may procure all necessary materials, equipment or other items required for the  
18 continued progress of such Work. The costs incurred by COUNTY as a result of  
19 engaging another contractor shall be deducted from the compensation payable  
20 pursuant to this Agreement and if COUNTY's costs exceed or may reasonably be  
21 anticipated to exceed the balance of the compensation due to CONTRACTOR for  
22 such work, such excess, or anticipated excess, shall be immediately due and owing  
23 from CONTRACTOR to COUNTY and may be withheld from any funds due to  
24 CONTRACTOR pursuant to this Agreement or any other agreement.

25 **16.1.3.** COUNTY may terminate CONTRACTOR's right to perform upon written notice  
26 and COUNTY shall then have the option of completing the Work or any portion  
27 thereof by exercise of its interest under the performance bond issued in favor by  
28 CONTRACTOR, or having such Work in whole or in part be completed by others

1 for CONTRACTOR's account. A calculation shall take place at the conclusion  
2 of the Project wherein to the degree the sum of COUNTY's costs and any amounts  
3 paid to complete the Project exceed the compensation payable pursuant to this  
4 Agreement, then any such excess shall be immediately due and owing from  
5 CONTRACTOR to COUNTY.

6 **16.2. Damages.** CONTRACTOR shall be liable for all damages suffered by COUNTY by  
7 reason of CONTRACTOR's default in any provision of this Agreement and the exercise  
8 of COUNTY of its option to terminate this Agreement shall not release CONTRACTOR  
9 of such liability. CONTRACTOR shall have no right to receive any further payment after  
10 a default has occurred until such time as the Work to be performed by CONTRACTOR  
11 pursuant hereto has been completed and accepted by COUNTY and damages suffered by  
12 COUNTY, if any, ascertained. Damages shall include by way of illustration, but not of  
13 exclusion, COUNTY's costs of completing the Work which exceeds the compensation  
14 payable pursuant to this Agreement, other general, liquidated, special or consequential  
15 damages, attorney fees and costs.

16 **16.3. Actions After Default.** Should COUNTY exercise any of its options, remedies or rights  
17 granted pursuant to the terms of this Agreement in the event of a default by  
18 CONTRACTOR, COUNTY at its sole election may, but shall not be obligated to, use  
19 any materials, supplies, tools or equipment on the work site which belong to  
20 CONTRACTOR to complete the Work required to be completed by CONTRACTOR,  
21 whether such work is completed by COUNTY or by others, and CONTRACTOR agrees  
22 that it shall not remove such materials, supplies, tools and equipment from the work site  
23 unless directed in writing by COUNTY to do so.

24 **16.4. Limit on Force Majeure Damages.** CONTRACTOR shall not be responsible for repairing  
25 or restoring damage to work caused by an act of God in excess of five (5) percent of the  
26 contract amount, provided that the work damaged is built in accordance with accepted  
27 and applicable building standards and the plans and specifications of COUNTY. In the  
28 event of such damage, COUNTY may, at its option, elect to terminate this Agreement.

1 For purposes of this Agreement, an “act of God” shall be defined as an earthquake in  
2 excess of 3.5 on the Richter Scale and a tidal wave.

3 **16.5. Resolution of Claims.** COUNTY and CONTRACTOR agree to follow and comply with  
4 the mediation, arbitration, claim, civil action procedure and trial de novo provisions set  
5 forth in California Public Contracts Code §§ 9204 and 20104 – 20104.6.

6 **16.6. No Limitation of Rights.** The options and rights granted to COUNTY herein shall not be  
7 deemed as limitations upon the other rights and remedies of COUNTY in the event of a  
8 failure of performance or breach by CONTRACTOR, and COUNTY shall be entitled to  
9 exercise the rights and remedies hereinabove specified and all other rights and remedies  
10 which may be provided in this Agreement or by law or in equity, either cumulatively or  
11 consecutively, and in such order as COUNTY in its sole discretion shall determine.

12 **17. NON-DISCRIMINATION.**

13 **17.1.** During the performance of this Agreement, CONTRACTOR and its subcontractors shall  
14 not unlawfully discriminate, harass or allow harassment against any employee or  
15 applicant for employment because of sex, race, color, ancestry, religious creed, national  
16 origin, physical disability (including HIV and AIDS), mental disability, medical  
17 condition (cancer), age (over forty (40)), marital status and denial of family care leave.

18 **17.2.** CONTRACTOR and its subcontractors shall insure that the evaluation and treatment of  
19 their employees and applicants for employment are free from such discrimination and  
20 harassment.

21 **17.3.** CONTRACTOR and its subcontractors shall comply with the provisions of the Fair  
22 Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable  
23 regulations promulgated thereunder (California Code of Regulations, Title 2, Section  
24 7285 et seq.).

25 **17.4.** The applicable regulations of the Fair Employment and Housing Commission  
26 implementing Government Code §12990 (a-f), set forth in Chapter 5 of Division 4 of  
27 Title 2 of the California Code of Regulations, are incorporated into this Agreement by  
28 reference and made a part hereof as if set forth in full.

- 1           **17.5.** The applicable regulations of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C.  
2           §794 (a)) are incorporated into this Agreement by reference and made a part hereof as if  
3           set forth in full.
- 4           **17.6.** CONTRACTOR and its subcontractors shall give written notice of their obligations under  
5           this clause to labor organizations with which they have a collective bargaining or other  
6           agreement.
- 7           **17.7.** CONTRACTOR shall include the nondiscrimination and compliance provisions of this  
8           clause in all subcontracts to perform Work under this Agreement.
- 9           **18.    DISADVANTAGED BUSINESS ENTITY COMPLIANCE.**
- 10          **18.1.** When applicable, CONTRACTOR and its subcontractors shall reference and abide by  
11          the guidance and Disadvantaged Business Enterprise (“DBE”) specifications contained  
12          in the California Department of Transportation’s Standard Specifications.
- 13          **18.2.** CONTRACTOR represents and warrants that is has fully read the applicable DBE  
14          requirements pertaining to this Project and has fully and accurately completed any and  
15          all required DBE forms.
- 16          **18.3.** CONTRACTOR represents and warrants that it will comply with all applicable DBE  
17          requirements for this Project.
- 18          **18.4.** CONTRACTOR shall comply with the applicable DBE provisions attached hereto as  
19          **Exhibit “D”** and incorporated by this reference as though fully set forth herein.
- 20          **18.5.** If any state or federal funds are withheld from COUNTY or not reimbursed to COUNTY  
21          due to CONTRACTOR’s failure to either comply with the DBE requirements set forth in  
22          the RFP and this Agreement, or to meet the mandatory DBE goals as determined by  
23          COUNTY, Caltrans, the Federal Highway Administration, and/or any other state or  
24          federal agency contributing funds to the Project, then CONTRACTOR shall fully  
25          reimburse COUNTY the amount of funding lost. COUNTY reserves the right to deduct  
26          any such loss in funding from the amount of compensation due to CONTRACTOR under  
27          this Agreement.
- 28          **18.6.** In addition to the above, CONTRACTOR’s failure to comply with DBE

1 requirements/goals shall subject it to such sanctions as are permitted by law, which may  
2 include, but shall not be limited to the following:

3 **18.6.1.** Termination of this Agreement;

4 **18.6.2.** Withholding monthly progress payments;

5 **18.6.3.** Denial of payment for any portion of the Project that was committed at the time  
6 of the execution of this Agreement to be performed by a DBE subcontractor, but  
7 was completed by CONTRACTOR or a substitute non-DBE subcontractor;

8 **18.6.4.** Compensatory, special, incidental, liquidated and other damages; and/or

9 **18.6.5.** Designation of CONTRACTOR as “nonresponsible,” and disqualification from  
10 bidding on future public works projects advertised by COUNTY.

11 **19. PREVAILING WAGE.**

12 **19.1.** CONTRACTOR and its subcontractors shall pay all workers employed on the Project the  
13 higher of either the rates determined by the Director of the California Department of  
14 Industrial Relations (“DIR”) or, when applicable, the Davis-Bacon Federal wage rates as  
15 supplemented by the Department of Labor regulations. The Davis-Bacon Federal wage  
16 rates are attached to the RFP. Copies of the State prevailing rate of per diem wages are  
17 on file with the Department of Industrial Relations, Division of Apprenticeship Standards,  
18 445 Golden Gate Avenue, San Francisco, California, and at COUNTY’s Department of  
19 Public Works, and are available to CONTRACTOR and any other interested party upon  
20 request. CONTRACTOR shall post the prevailing rate of per diem wages to be posted at  
21 the Project site.

22 **19.2.** CONTRACTOR is responsible for compliance with the provisions herein.

23 **19.3. Mandatory Registration with the Department of Industrial Relations – NEW**  
24 **REQUIREMENTS PURSUANT TO SB 854.**

25 **19.3.1.** CONTRACTOR and its subcontractors shall register with the DIR and pay all  
26 applicable fees as set forth in Labor Code section 1725.5.

27 **19.3.2.** CONTRACTOR and its subcontractors acknowledge that they shall not be listed  
28 on any bid proposal for a public works project (submitted on or after March 1,

1 2015) unless registered with the DIR pursuant to Labor Code section 1725.5. The  
2 requirements of this section shall apply unless one of the limited exceptions  
3 provided under Labor Code Section 1771.1(a) applies.

4 **19.3.3.** CONTRACTOR and its subcontractors acknowledge that they shall not be  
5 awarded any contract for public work on a public works project (awarded on or  
6 after April 1, 2015) unless registered with the DIR pursuant to Labor Code section  
7 1725.5.

8 **19.3.4.** The Project described herein is subject to compliance monitoring and enforcement  
9 with the DIR.

10 **19.3.5.** For further information concerning compliance with SB 854, please visit:  
11 <http://www.dir.ca.gov/Public-Works/SB854.html>.

12 **19.4. Cognizance of Violations by County.**

13 **19.4.1.** CONTRACTOR understands and agrees that COUNTY shall take cognizance of  
14 violations of Chapter 1 of Part 7 of Division 2 of the California Labor Code  
15 committed in the course of the execution of this Agreement, and shall promptly  
16 report any suspected violations to the Labor Commissioner.

17 **19.4.2.** If CONTRACTOR determines as a result of its own investigation that there has  
18 been a violation of Chapter 1 of Part 7 of Division 2 of the California Labor Code  
19 and withholds payment to CONTRACTOR, the procedures in California Labor  
20 Code §1771.6 shall be followed.

21 **19.4.3.** CONTRACTOR may bring an action in a court of competent jurisdiction to  
22 recover from COUNTY the difference between the wages actually paid to an  
23 employee and the wages that were required to be paid to an employee pursuant to  
24 Chapter 1 of Part 7 of Division 2 of the California Labor Code, any penalties  
25 required to be paid pursuant to Chapter 1 of Part 7 of Division 2 of the California  
26 Labor Code, and costs and attorney's fees related to the action, if either of the  
27 following is true:

28 **(a)** COUNTY previously affirmatively represented to CONTRACTOR in



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writing, in the call for bids, or otherwise, that the Work was not a “public work,” as defined in Chapter 1 of Part 7 of Division 2 of the California Labor Code; or

(b) COUNTY received actual written notice from the Department of Industrial Relations that the Work is a “public work,” as defined in Chapter 1 of Part 7 of Division 2 of the California Labor Code, and failed to disclose that information to CONTRACTOR before the bid opening or award.

**19.5. Prevailing Wage Rates and Payroll Records.**

**19.5.1.** CONTRACTOR agrees to comply with §§1775 and 1776 of the California Labor Code relating to the payment of prevailing wage and the maintenance of certified payroll records and to make the certified payroll records available for inspection at all reasonable hours at CONTRACTOR’s principal office. The responsibility for compliance with these provisions is fixed with CONTRACTOR. CONTRACTOR understands and agrees that it shall, as a penalty to COUNTY, forfeit specific monetary fines for each worker paid less than the prevailing wage rates as determined by the Labor Commissioner for the work or craft in which the worker is employed for any Work done pursuant to this Agreement.

**19.5.2.** *Prevailing Wage Compliance For those Projects subject to DIR Monitoring and Enforcement.* CONTRACTOR has reviewed and agrees to comply with any applicable provisions for those Projects subject to Department of Industrial Relations (DIR) Monitoring and Enforcement of prevailing wages. COUNTY hereby notifies CONTRACTOR that CONTRACTOR is responsible for complying with the requirements of Senate Bill 854 (SB854) regarding certified payroll record reporting. Further information concerning the requirements of SB854 is available on the DIR website located at: <http://www.dir.ca.gov/PublicWorks/PublicWorksEnforcement.html>.

**19.5.3.** CONTRACTOR shall be liable for penalties pursuant to this section when a

1 subcontractor on the Project fails to pay its workers the general prevailing rate of  
2 per diem wages and any of the following conditions are met:

- 3 (a) CONTRACTOR had knowledge of that failure of the subcontractor to pay  
4 the specified prevailing rate of wages to those workers; or
- 5 (b) CONTRACTOR fails to comply with the following requirement: The  
6 contract executed between CONTRACTOR and the subcontractor for the  
7 performance of Work on the Project shall include a copy of the provisions  
8 of California Labor Code §§1771, 1775, 1776, 1777.5, 1813 and 1815;  
9 and
- 10 (c) CONTRACTOR fails to comply with the following requirement:  
11 CONTRACTOR shall monitor the payment of the specified general  
12 prevailing rate of per diem wages by the subcontractor to the employees,  
13 by periodic review of the certified payroll records of the subcontractor;  
14 and
- 15 (d) Upon becoming aware of the failure of the subcontractor to pay his or her  
16 workers the specified prevailing rate of wages, CONTRACTOR shall  
17 diligently take corrective action to halt or rectify the failure, including, but  
18 not limited to, retaining sufficient funds due the subcontractor for work  
19 performed on the public works project; and
- 20 (e) Prior to making final payment to the subcontractor for Work performed  
21 on the Project, CONTRACTOR shall obtain an affidavit signed under  
22 penalty of perjury from the subcontractor that the subcontractor has paid  
23 the specified general prevailing rate of per diem wages to his or her  
24 employees on the Project and any amounts due pursuant to California  
25 Labor Code §1813.

26 **19.6. Work Day and Work Week Requirements.** CONTRACTOR agrees to comply with  
27 §§1810 through 1815 of the California Labor Code and, when applicable, sections 103  
28 and 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. §§3700 et seq.,



1 as supplemented by the Department of Labor regulations, which provide that  
2 CONTRACTOR's workers and its subcontractor's workers may not be required or  
3 permitted to work more than eight (8) hours in any one (1) calendar day and forty (40)  
4 hours in any one (1) calendar week. Further, work performed by employees of  
5 CONTRACTOR or its subcontractor in excess of eight (8) hours per day, and forty (40)  
6 hours during any one (1) week, shall be compensated for all hours worked in excess of  
7 eight (8) hours per day at not less than one and one-half (1½) times the basic rate of pay.  
8 The responsibility for compliance with these provisions is fixed with CONTRACTOR.  
9 CONTRACTOR understands and agrees that it shall, as a penalty to COUNTY, forfeit  
10 specific monetary fines to COUNTY should CONTRACTOR or its subcontractors fail to  
11 comply with the provisions contained within this Paragraph.

12 **19.7. Apprenticeship Requirements.**

13 **19.7.1.** CONTRACTOR agrees to comply with §§1777.5, 1777.6 and 1777.7 of the  
14 California Labor Code relating to the employment of apprentices and to provide  
15 COUNTY with copies of any contract award information and verified statements  
16 of the journeyman and apprentice hours performed pursuant to this Agreement as  
17 required by §1777.5(e). The responsibility for compliance with these provisions  
18 is fixed with CONTRACTOR for all apprenticeable occupations, where  
19 journeymen in the craft are employed on the public work, in a ratio of not less  
20 than one (1) apprentice for each five (5) journeymen (unless an exemption is  
21 granted in accordance with §1777.5) and CONTRACTOR and its subcontractors  
22 shall not discriminate among otherwise qualified employees as indentured  
23 apprentices on any public work solely on the ground of race, religious creed, color,  
24 national origin, ancestry, sex, or age, except as provided in California Labor Code  
25 §3077. Only apprentices, as defined in California Labor Code §3077, who are in  
26 training under apprenticeship standards and who have signed written apprentice  
27 agreements will be employed on public works in apprenticeable occupations.  
28 This section shall not be enforced if the not-to-exceed amount of this Agreement

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set forth and/or incorporated in the "COMPENSATION" Section is less than thirty thousand dollars (\$30,000).

**19.7.2.** If the Project falls within the jurisdiction of California Labor Code §1777.5, COUNTY shall, within five (5) days of the award, send a copy of the award to the Division of Apprenticeship Standards. In addition, COUNTY shall notify the Division of Apprenticeship Standards of a finding of any discrepancy regarding the ratio of apprentices to journeymen within five (5) days of the finding.

**19.8. Labor Standards Compliance Requirements.**

**19.8.1.** It is CONTRACTOR's responsibility to provide all labor compliance documentation from its subcontractors completely and accurately in a timely manner. CONTRACTOR is responsible to review promptly and then forward on all required documentation to COUNTY per the time schedules in the Labor Compliance Handout. Included with the Labor Compliance Handout, COUNTY will provide training, documentation requirements, forms, etc., at the preconstruction conference or at a time designated by COUNTY.

**19.8.2.** In the event, during the review process of labor compliance documentation from COUNTY's labor compliance monitor, inaccurate, missing or incomplete information was provided, the labor compliance monitor will request from CONTRACTOR the items, revisions and documentation needed. The cost of this additional labor compliance enforcement shall be borne by CONTRACTOR.

**20. INELIGIBILITY.**

**20.1.** CONTRACTOR represents and warrants that it and its subcontractors are not ineligible to work for COUNTY due to violations of Labor Code §§1777.1 and 1777.7.

**20.2.** If CONTRACTOR is deemed ineligible to perform work on public works projects pursuant to Labor Code Sections 1777.1 or 1777.7, then CONTRACTOR shall be prohibited from bidding on, being awarded an agreement for, or performing work as a subcontractor on this Project, or any other public works project within the state of California.

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**21. SIGNAGE REQUIREMENTS.**

**21.1. Project Identity Signage.** CONTRACTOR is required to provide and install the required project identity signage as detailed in the Plans and Specifications, in the size and at the location indicated by the Director of Public Works or his/her designee, and to maintain the signage in good condition for the duration of the Project. The signage may not be removed until the Notice of Completion is recorded or by written direction of the Director of Public Works or his/her designee.

**21.2. Required Employee Signage and Posters.** CONTRACTOR is required to provide and install the Federal and State required employee posters and the required material pertaining to the required labor standards provisions are posted (including, but not limited to, WH-1321, OSHA 3165 and OFCCP-English, EFCCP-Spanish) at the worksite in a prominent and accessible place.

**21.3. Section 3 Compliant Signage.** If required by COUNTY, CONTRACTOR is directed to provide and install the "Offer for Employment" signage as detailed in the Plans and Specifications in the size and at the location indicated by the Director of Public Works or his/her designee and to maintain the signage in good condition for the duration of the Project. The signage may not be removed until the Notice of Completion is recorded or by written direction of the Director of Public Works or his/her designee.

**22. CONFLICT OF INTEREST AND GRATUITIES.**

**22.1.** CONTRACTOR agrees that it presently has no interest and shall not acquire any interest, direct or indirect, which could conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further agrees that in the performance of this Agreement, no person having any such interest shall be employed.

**22.2.** CONTRACTOR agrees to designate such person or persons who have responsibility for carrying out the services under this Agreement and that such person or persons as may be designated shall take any and all actions necessary to comply with COUNTY's Conflict of Interest Code adopted pursuant to California Government Code §81000 to the extent

1 required thereunder.

2 **22.3.** If it is found, after notice and hearing by COUNTY, that gratuities (in the form of  
3 entertainment., gifts, or otherwise) were offered or given by CONTRACTOR, or any  
4 agent or representative of CONTRACTOR, to any officer, employee or agent of  
5 COUNTY with a view toward securing a contract or securing favorable treatment with  
6 respect to the awarding or amending or the making of any determinations with respect to  
7 the performance of this Agreement, COUNTY may, by written notice to  
8 CONTRACTOR, terminate the right of CONTRACTOR to proceed under this  
9 Agreement and/or may pursue such other rights and remedies provided by law or under  
10 this Agreement.

11 **22.4.** In the event this Agreement is terminated as provided herein, COUNTY shall be entitled  
12 to:

13 **22.4.1.** Pursue the same remedies against CONTRACTOR as it could pursue in the event  
14 of a breach of the Agreement by CONTRACTOR; and

15 **22.4.2.** As a penalty in addition to any other damages to which it may be entitled by law,  
16 to exemplary damages in an amount (as determined by COUNTY) which shall be  
17 not less than three (3) nor more than ten (10) times the costs incurred by  
18 CONTRACTOR in providing any such gratuities to any such officer, employee  
19 or agent.

20 **23. HOUSING AND URBAN DEVELOPMENT ACT COMPLIANCE.**

21 When applicable, CONTRACTOR agrees to comply with Section 3 of the Housing and Urban  
22 Development Act of 1968 (42 U.S.C. 3601 et seq.) which provides that to the greatest extent feasible,  
23 CONTRACTOR shall provide job training, employment and contracting opportunities for low- or very-  
24 low income residents in connection with the Project. The responsibility for compliance with these  
25 provisions is fixed with CONTRACTOR.

26 **24. COPELAND "ANTI-KICKBACK" ACT COMPLIANCE.**

27 When applicable, CONTRACTOR agrees to comply with the Copeland Act  
28 (18 USC §874 and 40 USC §276c; 29 C.F.R. Part 3) which precludes CONTRACTOR and its

1 subcontractors from in any way inducing an employee to give up any part of the compensation to which  
2 he or she is entitled under his or her contract of employment. CONTRACTOR and its subcontractors  
3 shall submit a weekly statement of the wages paid to each employee performing on covered work during  
4 the preceding payroll period. CONTRACTOR understands and agrees that should CONTRACTOR its  
5 subcontractors induce an employee working on a covered contract to give up any part of the  
6 compensation to which he or she is entitled, the inducing party may be subject to a five thousand dollar  
7 (\$5,000) fine, or imprisonment for up to five (5) years, or both. CONTRACTOR also understands and  
8 agrees that willful falsification of the statement of compliance may subject the employer to civil or  
9 criminal prosecution and may be cause for contract termination or debarment. The responsibility for  
10 compliance with these provisions is fixed with CONTRACTOR.

11 **25. FAIR LABOR STANDARDS ACT COMPLIANCE.**

12 When applicable, CONTRACTOR agrees to comply with the Fair Labor Standards Act of 1938  
13 as amended (29 U.S.C. 201 et seq.) which establishes minimum wage, overtime pay, recordkeeping, and  
14 youth employment standards affecting full-time and part-time workers on the Project. The responsibility  
15 for compliance with these provisions is fixed with CONTRACTOR.

16 **26. CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER**  
17 **RESPONSIBILITY MATTERS.**

18 When applicable, CONTRACTOR agrees to execute a certification regarding debarment,  
19 suspension and other responsibility matters. The responsibility for compliance with this provision is  
20 fixed with CONTRACTOR.

21 **27. FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT**  
22 **SPECIFICATIONS.**

23 When applicable, CONTRACTOR agrees to incorporate the notice set forth in paragraph (d) of  
24 41 C.F.R. 60-4.2 relating to the "Equal Opportunity Clause" and the "Standard Federal Equal  
25 Employment Specifications." The responsibility for compliance with this provision is fixed with  
26 CONTRACTOR.

27 **28. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT.**

28 When applicable, CONTRACTOR agrees to comply with all applicable standards, orders or

1 regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.), the Federal Water Pollution  
2 Control Act as amended (33 U.S.C. 1251 et seq.), Presidential Executive Order 11738 and  
3 Environmental Protection Agency regulations set forth at 40 C.F.R. Part 15. CONTRACTOR  
4 understands and agrees that violations shall be reported to the Federal awarding agency and the Regional  
5 Office of the Environmental Protection Agency. The responsibility for compliance with these provisions  
6 is fixed with CONTRACTOR.

7 **29. PROHIBITION ON THE USE OF FEDERAL FUNDS FOR LOBBYING.**

8 When applicable, CONTRACTOR shall file the required certification. Each tier certifies to the  
9 tier above that it will not and has not used Federal appropriated funds to pay any person or organization  
10 for influencing or attempting to influence an officer or employee of any agency, a member of Congress,  
11 officer or employee of Congress, or an employee of a member of Congress in connection with obtaining  
12 any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose  
13 any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.  
14 Such disclosures are forwarded from tier to tier up to the recipient. The responsibility for compliance  
15 with this provision is fixed with CONTRACTOR.

16 **30. FEDERAL EMPLOYMENT ELIGIBILITY VERIFICATION.**

17 CONTRACTOR shall verify name, date of birth and social security number, along with  
18 immigration information for non-citizens in order to verify the identity and employment eligibility of  
19 both citizen and non-citizen new hires. The responsibility for compliance with this provision is fixed  
20 with CONTRACTOR.

21 **31. THE CIVIL RIGHTS, HCD AND AGE DISCRIMINATION ACT ASSURANCES.**

22 **31.1.** During the performance of this Agreement, CONTRACTOR assures that no otherwise  
23 qualified person shall be excluded from participation or employment, denied program  
24 benefits or be subjected to discrimination based on race, color, national origin, gender,  
25 age or handicap, under any program or activity funded by this Agreement, as required by  
26 Title VI of the Civil Rights Act of 1964, Title I of the Housing and Community  
27 Development Act of 1974, as amended, and the Age Discrimination Act of 1975, and all  
28 implementing regulations. The responsibility for compliance with these provisions is



1 fixed with CONTRACTOR.

2 **31.2.** CONTRACTOR and its subcontractors shall not discriminate on the basis of race, color,  
3 national origin, or sex in the performance of this Agreement. CONTRACTOR shall carry  
4 out the applicable requirements of 49 C.F.R. Chapter 26 in the award and administration  
5 of Department of Transportation assisted contracts. Failure by CONTRACTOR to carry  
6 out these requirements is a material breach of this Agreement, which may result in the  
7 termination of this Agreement, or such other remedy as COUNTY deems appropriate.  
8 CONTRACTOR shall include the nondiscrimination and compliance provisions of this  
9 Paragraph in all subcontracts to perform Work under this Agreement.

10 **32. FEDERAL EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS.**

11 **32.1.** CONTRACTOR hereby agrees that it will incorporate or cause to be incorporated into  
12 any contract for construction work, or modification thereof, as defined in the regulations  
13 of the Secretary of Labor at 41 C.F.R. Chapter 60, which is paid for in whole or in part  
14 with funds obtained from the Federal Government or borrowed on the credit of the  
15 Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or  
16 undertaken pursuant to any Federal program involving such grant, contract, loan,  
17 insurance, or guarantee, the following equal opportunity clause. For the purposes of this  
18 Subsection, the term "contractor" shall refer to CONTRACTOR, and the term "contract"  
19 shall refer to this Agreement:

20 *"During the performance of this contract, the Contractor agrees as follows:*

21 *(1) The contractor will not discriminate against any employee or applicant for*  
22 *employment because of race, color, religion, sex, or national origin. The*  
23 *contractor will take affirmative action to ensure that applicants are*  
24 *employed, and that employees are treated during employment, without*  
25 *regard to their race, color, religion, sex, or national origin. Such action*  
26 *shall include, but not be limited to the following: Employment, upgrading,*  
27 *demotion, or transfer, recruitment or recruitment advertising; layoff or*  
28 *termination; rates of pay or other forms of compensation; and selection for*

1 training, including apprenticeship. The contractor agrees to post in  
2 conspicuous places, available to employees and applicants for employment,  
3 notices to be provided by the contracting officer setting forth the provisions  
4 of this nondiscrimination clause.

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

9 (3) The contractor will send to each labor union or representative of workers  
10 with which he has a collective bargaining agreement or other contract or  
11 understanding, a notice to be provided by the agency contracting officer,  
12 advising the labor union or workers' representative of the contractor's  
13 commitments under section 202 of Executive Order 11246 of September 24,  
14 1965, and shall post copies of the notice in conspicuous places available to  
15 employees and applicants for employment.

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

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

25 (6) In the event of the contractor's non-compliance with the nondiscrimination  
26 clauses of this contract or with any of such rules, regulations, or orders,  
27 this contract may be canceled, terminated or suspended in whole or in part  
28 and the contractor may be declared ineligible for further Government



1                    *contracts in accordance with procedures authorized in Executive Order*  
2                    *11246 of September 24, 1965, and such other sanctions may be imposed*  
3                    *and remedies invoked as provided in Executive Order 11246 of September*  
4                    *24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as*  
5                    *otherwise provided by law.*

6                    (7) *the contractor will include the provisions of paragraphs (1) through (7) in*  
7                    *every subcontract or purchase order unless exempted by rules, regulations,*  
8                    *or orders of the Secretary of Labor issued pursuant to section 204 of*  
9                    *Executive Order 11246 of September 24, 1965, so that such provisions will*  
10                    *be binding upon each subcontractor or vendor. The contractor will take*  
11                    *such action with respect to any subcontract or purchase order as may be*  
12                    *directed by the Secretary of Labor as a means of enforcing such provisions*  
13                    *including sanctions for noncompliance: Provided, however, that in the*  
14                    *event the contractor becomes involved in, or is threatened with, litigation*  
15                    *with a subcontractor or vendor as a result of such direction, the contractor*  
16                    *may request the United States to enter into such litigation to protect the*  
17                    *interests of the United States.”*

18                    **32.2.** CONTRACTOR further agrees that it will be bound by the above equal opportunity  
19                    clause with respect to its own employment practices when it participates in federally-  
20                    assisted construction work; provided that if CONTRACTOR so participating is a State or  
21                    local government, the above equal opportunity clause is not applicable to any agency,  
22                    instrumentality, or subdivision of such government which does not participate in work on  
23                    or under the Agreement.

24                    **32.3.** CONTRACTOR agrees that it will assist and cooperate actively with the administering  
25                    agency and the Secretary of Labor in obtaining the compliance of Contractors and  
26                    subcontractors with the equal opportunity clause and the rules, regulations, and relevant  
27                    orders of the Secretary of Labor, that it will furnish the Department and HUD and the  
28                    Secretary of Labor such information as they may require for the supervision of such

1 compliance, and that it will otherwise assist the administering agency in the discharge of  
2 the agency's primary responsibility for securing compliance.

3 **32.4.** CONTRACTOR further agrees that it will refrain from entering into any contract or  
4 contract modification subject to Executive Order 11246 of September 24, 1965, with a  
5 contractor debarred from, or who has not demonstrated eligibility for, government  
6 contracts and federally-assisted construction contracts, pursuant to the Executive Order  
7 and will carry out such sanctions and penalties for violation of the equal opportunity  
8 clause as may be imposed upon contractors and subcontractors by the administering  
9 agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order.  
10 In addition, CONTRACTOR agrees that if it fails or refuses to comply with these  
11 undertakings, COUNTY may take any or all of the following actions: Cancel, terminate,  
12 or suspend in whole or in part this funding commitment (contract, loan, grant, insurance,  
13 guarantee); refrain from extending any further assistance to the applicant under the  
14 program with respect to which the failure or refund occurred until satisfactory assurance  
15 of future compliance has been received from such Contractor; and refer the case to the  
16 Department of Justice for appropriate legal proceedings.

17 **33. ASSIGNMENT OF CLAIMS – CLAYTON OR CARTWRIGHT ACTS.**

18 CONTRACTOR shall comply with the following provisions regarding the assignment of claims  
19 arising from either the Clayton Act or the Cartwright. For the purposes of this Section, the term  
20 "contractor" shall refer to CONTRACTOR, the term "awarding body" shall refer to COUNTY, and the  
21 term "public works contract" shall refer to this Agreement:

22 *"In entering into a public works contract or a subcontract to supply goods, services, or*  
23 *materials pursuant to a public works contract, the contractor or subcontractor offers and*  
24 *agrees to assign to the awarding body all rights, title, and interest in and to all causes of*  
25 *action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the*  
26 *Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the*  
27 *Business and Professions Code), arising from purchases of goods, services, or materials*  
28 *pursuant to the public works contract or the subcontract. This assignment shall be made*

1 *and become effective at the time the awarding body tenders final payment to the contractor,*  
2 *without further acknowledgment by the parties."*

3 **34. NON-COLLUSION.**

4 CONTRACTOR agrees he/she has executed and submitted with the Bid a Non-Collusion  
5 Affidavit that complies with Cal. Public Code §7106, included in **Exhibit "B"** and incorporated herein.

6 **35. NOTICES AND REPORTS.**

7 **35.1.** All notices and reports under this Agreement shall be in writing and may be given by  
8 personal delivery or by mailing by certified mail, addressed as follows:

9 COUNTY

10 Imperial County Department of Public Works  
11 Attention: Director  
12 155 South Eleventh Street  
13 El Centro, CA 92243

CONTRACTOR

«Contractor\_Business\_Name»  
«Contractor\_Street\_Address»  
«Contractor\_City\_State»

14 with copies to:

15 Imperial County Executive Office  
16 Attention: County Executive Officer  
17 940 West Main Street, Suite 208  
18 El Centro, CA 92243

19 and:

20 Imperial County Department of Human  
21 Resources and Risk Management  
22 Attention: Director  
23 940 West Main Street, Suite 101  
24 El Centro, CA 92243

25 **35.2.** Notices and reports under this Agreement may be given by personal delivery or by  
26 mailing by certified mail at such other address as either Party may designate in a notice  
27 to the other Party given in such manner. Any notice given by mail shall be considered  
28 given when deposited in the United States Mail, postage prepaid, addressed as provided  
herein.

29 **36. ENTIRE AGREEMENT.**

30 This Agreement contains the entire agreement between COUNTY and CONTRACTOR relating  
31 to the transactions contemplated hereby and supersedes all prior or contemporaneous agreements,

1 understandings, provisions, negotiations, representations, or statements, either written or verbal.

2 **37. ASSIGNMENT**

3 Neither this Agreement nor any duties or obligations hereunder shall be assignable by  
4 CONTRACTOR without the prior written consent of COUNTY.

5 **38. MODIFICATION**

6 No modification, waiver, amendment, discharge, or change of this Agreement shall be valid  
7 unless the same is in writing and signed by the Party against whom the enforcement of such modification,  
8 waiver, amendment, discharge, or change is or may be sought.

9 **39. CAPTIONS**

10 Captions in this Agreement are inserted for convenience of reference only and do not define,  
11 describe or limit the scope or the intent of this Agreement or any of the terms thereof.

12 **40. PARTIAL INVALIDITY**

13 If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void,  
14 or unenforceable, the remaining provisions will nevertheless continue in full force without being  
15 impaired or invalidated in any way.

16 **41. GENDER AND INTERPRETATION OF TERMS AND PROVISIONS**

17 Words and expressions in the masculine gender include the feminine and neuter genders. Words  
18 and expressions in the singular include the plural and words and expressions in the plural include the  
19 singular. CONTRACTOR as used in this Agreement or in any other document referred to in or made a  
20 part of this Agreement shall likewise include both singular and the plural, a corporation, a partnership,  
21 individual, firm or person acting in any fiduciary capacity as executor, administrator, trustee or in any  
22 other representative capacity or any other entity. All covenants herein contained on the part of  
23 CONTRACTOR shall be joint and several if more than one person, firm or entity executes the  
24 Agreement.

25 **42. WAIVER**

26 No waiver of any breach or of any of the covenants or conditions of this Agreement shall be  
27 construed to be a waiver of any other breach or to be consent to any further or succeeding breach of the  
28 same or any other covenant or condition.

1 **43. CHOICE OF LAW.**

2 The laws of the State of California shall govern this Agreement. This Agreement is made and  
3 entered into in Imperial County, California. Any action brought by either Party with respect to this  
4 Agreement shall be brought in a court of competent jurisdiction within said County.

5 **44. AUTHORITY.**

6 **44.1.** Each individual executing this Agreement on behalf of CONTRACTOR represents and  
7 warrants that:

8 **44.1.1.** He/She is duly authorized to execute and deliver this Agreement on behalf of  
9 CONTRACTOR;

10 **44.1.2.** Such execution and delivery is in accordance with the terms of the Articles of  
11 Incorporation or Partnership, any by-laws or Resolutions of CONTRACTOR and;

12 **44.1.3.** This Agreement is binding upon CONTRACTOR in accordance with its terms.

13 **44.2.** CONTRACTOR shall deliver to COUNTY evidence acceptable to COUNTY of the  
14 foregoing within thirty days of execution of this Agreement.

15 **45. COUNTERPARTS.**

16 This Agreement and any subsequent modifications may be executed in any number of  
17 counterparts, each of which when executed shall be an original, and all of which together shall constitute  
18 one and the same Agreement. No counterparts shall be effective until all Parties have executed a  
19 counterpart hereof.

20 **46. TIMING.**

21 The Parties agree that time is of the essence in this Agreement.

22 **47. REVIEW OF AGREEMENT TERMS.**

23 **47.1.** Each Party has had the opportunity to receive independent legal advice from its attorneys  
24 with respect to the advisability of making the representations, warranties, covenants and  
25 agreements provided for herein, and with respect to the advisability of executing this  
26 Agreement.

27 **47.2.** Each Party represents and warrants to and covenants with the other Party that:

28 **47.2.1.** This Agreement in its reduction to final written form is a result of extensive good

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faith negotiations between the Parties and/or their respective legal counsel; and  
47.2.2. The Parties and/or their legal counsel have carefully reviewed and examined this Agreement for execution by said Parties.

47.3. Any statute or rule of construction that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

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

**County of Imperial**

«Contractor\_Business\_Name»

By: \_\_\_\_\_  
Michael W. Kelley, Chairman  
Imperial County Board of Supervisors

By: \_\_\_\_\_  
«Contractor\_Name\_for\_Signature»

**ATTEST:**

By: \_\_\_\_\_  
Blanca Acosta,  
Clerk of the Board of Supervisors

**APPROVED AS TO FORM:**

Adam G. Crook,  
County Counsel

By: \_\_\_\_\_  
«CC\_Attorney»,  
«CC\_Attorney\_Title»

**PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS: THAT

WHEREAS, the COUNTY OF IMPERIAL (hereinafter designated as "Public Entity") by resolution passed \_\_\_\_\_, 20\_\_\_\_ has awarded to hereinafter designated as the "Principal," a contract for the work described as follows:

**ORCHARD ROAD IMPROVEMENTS FROM STATE ROUTE 7 TO ALAMO RIVER (CITY OF HOLTVILLE LIMITS)  
County of Imperial Project No. 6676**

WHEREAS, said Principal is required under the terms of said contract to furnish a bond for the faithful performance of said contract,

NOW THEREFORE, we, the Principal and \_\_\_\_\_ as Surety, are held and firmly bound unto the Public Entity in the penal 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 THIS OBLIGATION IS SUCH that if the above bounded Principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by and well and truly keep and perform, the covenants conditions and agreements in the said contract and any alteration thereof made as therein provided, on this or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the Public Entity, its officers and agents, as therein stipulated, then this obligation shall become null and void, otherwise, it shall be and remain in full force and virtue.

And the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in anywise affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work, or to the specifications.

In the event suit is brought upon this bond by the Public Entity and judgment is recovered, the Surety shall pay all costs incurred by the Public Entity in such suit, including a reasonable attorney's fee to be fixed by the court.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Principal

BY: \_\_\_\_\_

\_\_\_\_\_  
Surety

BY: \_\_\_\_\_

Attorney-in-Fact

[Attach Required Acknowledgement]

**PAYMENT BOND FOR PUBLIC WORKS**

KNOW ALL MEN BY THESE PRESENTS: That WHEREAS, the COUNTY OF IMPERIAL  
(hereinafter designated as "Public Entity") by resolution passed \_\_\_\_\_, 20\_\_\_\_, has awarded to \_\_\_\_\_  
\_\_\_\_\_ (hereinafter designated as the "Principal") a contract for the work described as follows:

**ORCHARD ROAD IMPROVEMENTS FROM STATE ROUTE 7 TO ALAMO RIVER (CITY OF  
HOLTVILLE LIMITS)  
County of Imperial Project No. 6676**

WHEREAS, said Principal is required by Chapter 5 (commencing at Section 9550), Title 3, Part 46, Division 4 of the California Civil Code to furnish a bond in connection with said contract:

NOW, THEREFORE, we, the Principal and \_\_\_\_\_

as Surety, are held and firmly bound unto the Public Entity in the penal 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 CONDITIONS OF THIS OBLIGATION IS SUCH that if said Principal, his or its subcontractors, heirs, executors, administrators, successors, or assigns, shall fail to pay any of the persons named in Section 9100 of the California 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 Franchise Tax Board from the wages of employees of the contractor and his subcontractors pursuant to Section 18806 of the California Revenue and Taxation Code, with respect to such work and labor the surety or sureties will pay for the same, in an amount not exceeding the sum hereinabove specified, and also, in case suit is brought upon this bond, a reasonable attorney's fee, to be fixed by the court.

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

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement hereinabove described or pertaining or relating to the furnishing of labor, materials, or equipment therefor, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement hereinabove described, nor by any rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the owner or Public Entity and original contractor or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Section 8400 or 8402 of the California Civil Code, and has not been paid the full amount of his claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned.

IN WITNESS WHEREOF this instrument has been duly executed by the Principal and Surety above named, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Principal  
BY: \_\_\_\_\_  
\_\_\_\_\_  
Surety  
BY: \_\_\_\_\_  
Attorney-in-Fact



**DIVISION XVI**  
**EXHIBITS & PERMITS**

## AIR POLLUTION CONTROL DISTRICT PERMIT REQUIREMENT

1. The Contractor shall be required to comply with the County of Imperial Air Pollution Control District's requirements. County of Imperial Air Pollution Control District forms, requirements and information are available via the internet at <http://www.imperialcounty.net/AirPollution/Default.htm>
2. The Contractor shall be responsible for completing, submitting and implementing the Construction Notification Form and Dust Control Plan as required by the Imperial County Air Pollution Control District.
3. All Bidders shall submit documents to the Imperial County Public Works Department showing proof of valid and current permits issued by the Air Pollution Control District including the Authorization to Construct and Permit to Operate. **The permits shall be submitted after the bid opening and prior to the award of the contract. Any Bidders failing to submit said documents shall render their bids nonresponsive and/or nonresponsible.**



County of Imperial  
 Department of Public Works  
 155 S 11th Street  
 El Centro, CA 92243  
 (442) 265-1818

## Monument Preservation Report PRE-CONSTRUCTION

FORM  
 MPR-01  
 April 2021

County of Imperial Permit Number/Project Name \_\_\_\_\_

PRIOR TO PERMIT ISSUANCE, THE PERMITTEE SHALL RETAIN THE SERVICE OF A PROFESSIONAL LAND SURVEYOR (OR CIVIL ENGINEER AUTHORIZED TO PRACTICE LAND SURVEYING) WHO WILL BE RESPONSIBLE FOR MONUMENT PRESERVATION AND WHO SHALL PROVIDE A CORNER RECORD (OR RECORD OF SURVEY) TO THE COUNTY SURVEYOR AS REQUIRED BY THE PROFESSIONAL LAND SURVEYORS' ACT, IF APPLICABLE. THE PERMITTEE IS RESPONSIBLE FOR THE COST OF RESTORING, OR REPLACING ALL SURVEY MONUMENTS THAT ARE DISTURBED, OR DESTROYED BY CONSTRUCTION.

(REFERENCE SECTION 8771 OF THE CALIFORNIA BUSINESS AND PROFESSIONS CODE)

**\*\*\*\*\* THIS FORM TO BE COMPLETED BY A PERSON AUTHORIZED TO PRACTICE LAND SURVEYING \*\*\*\*\***

THE TYPE OF CONSTRUCTION PROPOSED WILL NOT AFFECT ANY SURVEY MONUMENTS.  
 (This box is checked for projects that are proposing no demolition, trenching, excavation, surfacing, etc.)

NAME	P.L.S./R.C.E.	SIGNATURE	DATE	(SEAL)
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THE TYPE OF CONSTRUCTION MAY AFFECT SURVEY MONUMENTS.  
 (This box is checked for projects that are proposing demolition, trenching, excavation, surfacing, etc.)

I HAVE INSPECTED THE SITE(S) AND: (check all that apply) DATE OF INSPECTION: \_\_\_\_\_

- MONUMENT(S) AND/OR CORNER ACCESSORY(IES) WERE FOUND WITHIN THE LIMITS OF WORK WHICH I DETERMINED MAY BE DISTURBED OR DESTROYED. **(A corner record or record of survey is required.)** The found monument(s) and/or corner accessory(ies) were referenced and pre-construction corner record(s) (or record(s) of survey) showing the references has been filed with the County Surveyor for the project site(s). The filed corner record(s) (or record(s) of survey) is attached hereto. Also attached, (if not documented on the corner record(s) (or record(s) of survey)) is a sketch/diagram showing locations of monuments that were searched for and not found. I have placed "S.N.F." on the sketch/diagram for each monument and/or corner accessory that was not found. Photos may also be included.
- NO MONUMENT(S) AND/OR CORNER ACCESSORY(IES) WERE FOUND WITHIN THE LIMITS OF WORK. **(No corner record or record of survey is required.)** Attached is a sketch/diagram showing the limits of work and its relationship to the locations of any monument and/or corner accessory searched for and not found. I have placed "S.N.F." on the sketch/diagram for each monument and/or corner accessory not found. Photos may also be included.
- MONUMENT(S) AND/OR CORNER ACCESSORY(IES) WERE FOUND OUTSIDE THE LIMITS OF WORK WHICH I DETERMINED WILL REMAIN PROTECTED IN PLACE. **(No corner record or record of survey is required.)** Attached is a sketch/diagram of the work limits and its relationship to the found monuments. Photos may also be included.
- MONUMENT(S) AND/OR CORNER ACCESSORY(IES) WERE FOUND WITHIN THE LIMITS OF WORK WHICH I DETERMINED MAY BE DISTURBED OR DESTROYED, HOWEVER AN EXISTING CORNER RECORD (OR RECORD OF SURVEY) WHICH SHOWS SUFFICIENT REFERENCES HAS ALREADY BEEN FILED AND THERE IS NO DISCREPANCY ON THE FILED CORNER RECORD (OR RECORD OF SURVEY).

SOURCE(S) OF SURVEY DATA CONSULTED: (Final Maps, Parcel Maps, Records of Survey, private field notes, etc.)

FILED CORNER RECORD# \_\_\_\_\_ OR FILED RECORD OF SURVEY# \_\_\_\_\_

NAME	P.L.S./R.C.E.	SIGNATURE	DATE	(SEAL)
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County of Imperial  
 Department of Public Works  
 155 S 11th Street  
 El Centro, CA 92243  
 (442) 265-1818

## Monument Preservation Report POST-CONSTRUCTION

FORM  
**MPR-02**  
 April 2021

County of Imperial Permit Number/Project Name \_\_\_\_\_

PRIOR TO ISSUING A NOTICE OF COMPLETION FOR PERMITTED CONSTRUCTION, THE PERMITTEE SHALL RETAIN THE SERVICE OF A PROFESSIONAL LAND SURVEYOR (OR CIVIL ENGINEER AUTHORIZED TO PRACTICE LAND SURVEYING) WHO WILL BE RESPONSIBLE FOR MONUMENT RESTORATION AND WHO SHALL PROVIDE A CORNER RECORD (OR RECORD OF SURVEY) TO THE COUNTY SURVEYOR AS REQUIRED BY THE PROFESSIONAL LAND SURVEYORS' ACT. IF APPLICABLE, THE PERMITTEE IS RESPONSIBLE FOR THE COST OF RESTORING, OR REPLACING ALL SURVEY MONUMENTS THAT ARE DISTURBED, OR DESTROYED BY CONSTRUCTION.

(REFERENCE SECTION 8771 OF THE CALIFORNIA BUSINESS AND PROFESSIONS CODE)

**\*\*\*\*\* THIS FORM TO BE COMPLETED BY A PERSON AUTHORIZED TO PRACTICE LAND SURVEYING \*\*\*\*\***

MONUMENTS AND/OR CORNER ACCESSORY(IES) WERE PROTECTED IN PLACE AND THE PERMITTED CONSTRUCTION DID NOT DISTURB OR DESTROY ANY SURVEY MONUMENTS AND/OR CORNER ACCESSORY(IES).

NAME	P.L.S./R.C.E.	SIGNATURE	DATE	(SEAL)
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MONUMENT(S) AND/OR CORNER ACCESSORY(IES) WERE DISTURBED AND/OR DESTROYED DURING THE PERMITTED CONSTRUCTION. A new monument(s) was set in the surface of the new construction or a witness monument(s) was set to perpetuate the original location of the disturbed or destroyed monument(s) and a post-construction corner record or a record of survey was filed in the office of the County Surveyor. (New corner accessory(ies) may also be required.)

FILED CORNER RECORD# \_\_\_\_\_ OR FILED RECORD OF SURVEY# \_\_\_\_\_

NAME	P.L.S./R.C.E.	SIGNATURE	DATE	(SEAL)
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## **ENCROACHMENT PERMITS**

Encroachments permits are required by Caltrans, City of Holtville and Imperial Irrigation District. Permit for encroaching into their respective jurisdictions for work, including temporary traffic control. Imperial County is obtaining the permits on behalf of the agency, and when available will be provided to the successful bidder. If the permits are available prior to bid opening date, they will be provided as an addendum to this bid package to all bidders.

All permit fees required by Caltrans, City of Holtville and Imperial Irrigation District for encroachments will be assumed and paid for by Imperial County. However any contractor fees associated with assumption of the permits, including administrative fees, dual (rider) permits or inspection fees by Caltrans, City of Holtville and/or Imperial Irrigation District will be paid for by Contractor and no compensation shall be considered or made therefor.

Specifically for construction water from Imperial Irrigation District, the Imperial Irrigation District requires a stand-alone encroachment permit, including water application and fees to the IID Holtville Division office. The construction water permit is entirely the responsibility of the contractor, considered a part of the various items of work, and no compensation shall be considered or made therefor.