

COUNTY OF IMPERIAL
DEPARTMENT OF PUBLIC WORKS

NOTICE TO BIDDERS
SPECIAL PROVISIONS
PROPOSAL AND BID BOOK
FOR

MAGGIO ROAD AND ROOD ROAD DRAINAGE CONNECTION
STORM DRAIN PIPELINE IMPROVEMENTS
COUNTY PROJECT NO. 7004GTW



Notice to bidders and Special Provision dated: 07/25/2023
Project Plans approved: 06/28/2023
Standard Specifications: 2022
Standard Plans Dated: 2022

Bid Opening Date: 08/25/2023 @ 2:00PM



For use in connection with the 2022 Edition of the California Department of Transportation Standard Plans and Standard Specifications, and "Green Book Standard Specifications for Public Works Construction" latest edition. General Prevailing Wage Rates and Labor Surcharge and Equipment Rental Rates to the State of California, Department of Transportation.

SPECIAL NOTICE NO. 1

The bidder’s attention is directed to Division XIV entitled, “Documents to be Executed by Bidder” which includes a Request for Additional Information from Bidder to addressed as part of the bid proposal.

SPECIAL NOTICE NO. 2

The bidder’s attention is directed to Section 5 entitled, “Control of Work” which requires that proposed subcontractors be listed in the bidder’s proposal. 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 (Pub Cont Code §4100 et seq.), see Section 2-1.10.

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.

SPECIAL NOTICE NO. 3

- 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 2022, 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.

SPECIAL NOTICE NO. 4

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 Relation 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. 4 (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.

SPECIAL NOTICE NO. 5

- See sections 2 and 3 for contractors' registration requirements.
- See section 2 for submittal requirements for DBE quotes, DVBE quotes, and Non-Small Business Subcontractor Preference.
- 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).
- The schedules for the submittal of DBE forms have been revised. See section 2-1.33 for the submittal schedules.
- The flagging and temporary traffic control requirements have been revised. See sections 7-1.03, 7-1.04, and 12.
- See section 14-11.14 for changes to the management of treated wood waste.

MAGGIO ROAD AND ROOD ROAD DRAINAGE CONNECTION
 STORM DRAIN PIPELINE IMPROVEMENTS
 County of Imperial Project No. 7004GTW

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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 August 25th, 2023 at 2:00 p.m. at which time the proposals 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:

MAGGIO ROAD AND ROOD ROAD DRAINAGE CONNECTION STORM DRAIN PIPELINE IMPROVEMENTS COUNTY PROJECT NO. 7004GTW

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 required 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 (Pub. Cont. 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 Adolfo Garcia, Construction Coordinator, at 155 S. 11th Street, El Centro, CA 92243 or emailed to adolfo.garcia@co.imperial.ca.us before August 11th, 2023. No questions will be responded to after this day.

Inquiries or 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 DESCRIPTION	UNIT	ESTIMATED QUANTITY
1	MOBILIZATION	LS	1
2	TEMPORARY TRAFFIC CONTROL	LS	1
3	60" STORM DRAIN	LF	2,209
4	48" STORM DRAIN	LF	1,226
5	18" STORM DRAIN	LF	714
6	18" STORM DRAIN STUB-OUT	LF	20
7	6" STORM DRAIN SERVICE*	EA	10
8	48" DIAM. SD MANHOLE	EA	2
9	6'x4' SD JUNCTION BOX	EA	3
10	8'x8' SD JUNCTION BOX	EA	6
11	8' x 8' INDIAN WELLS JUNCTION BOX	EA	2
12	12" STORM DRAIN*	LF	142
13	SURVEYING & CONSTRUCTION STAKING	LS	1
14	WATER POLLUTION & EROSION CONTROL	LS	1
15	MONUMENT PRESERVATION/PERPETUATION	LS	1
16	TIME AND MATERIAL ALLOCATION	LS	1

(*) SDR 35 PVC, OR APPROVED EQUAL

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 <https://publicworks.imperialcounty.org/>

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 that he or she 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.

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).

Attention is directed to the Federal minimum wage rate requirements set forth elsewhere in these special provisions. 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.

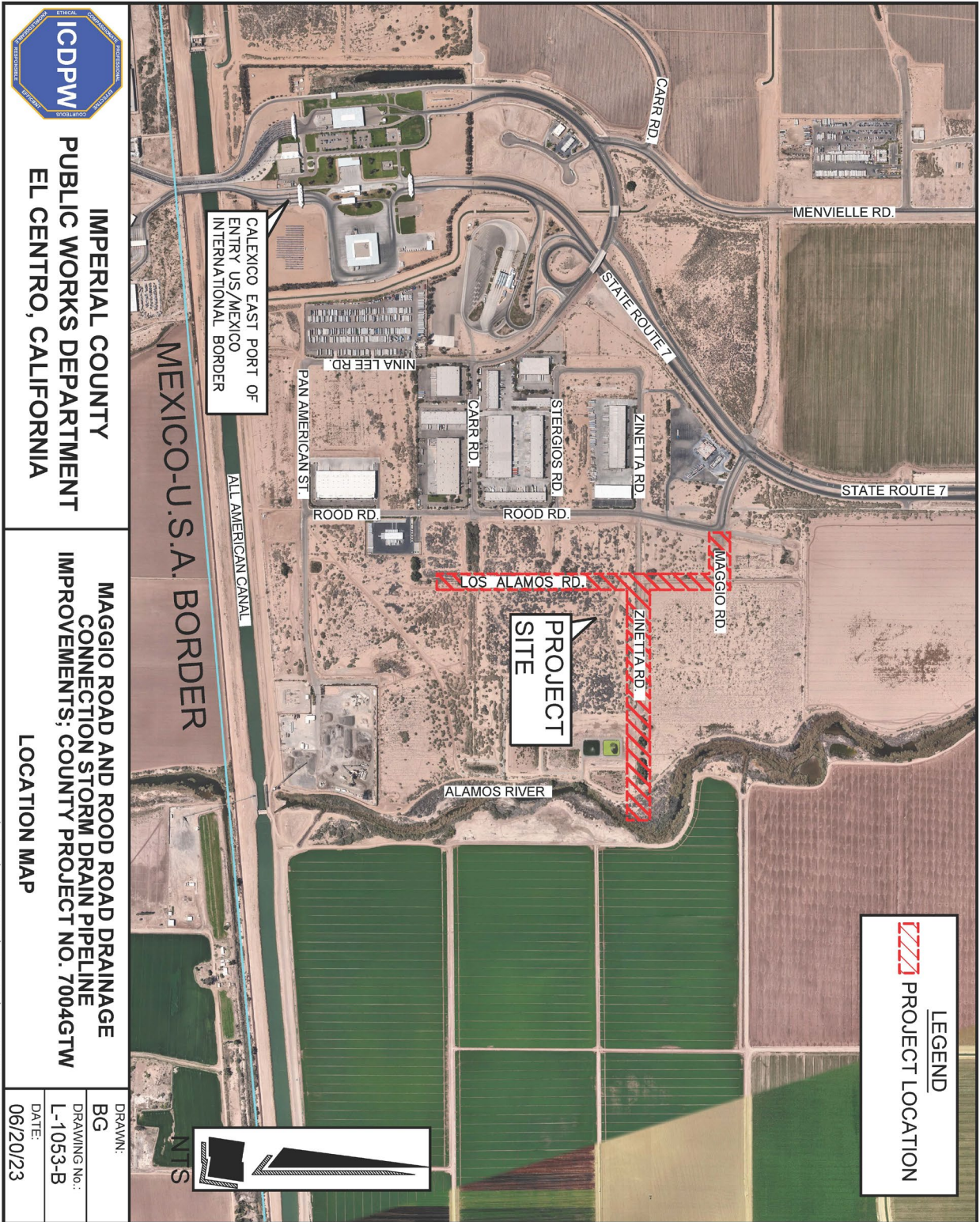
Withdrawal of bids shall not be permitted for a period of seventy-five (75) days after the date set for the opening thereof.

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 7/25/23
Blanca Acosta Date
Clerk of the Board of Supervisors

Approved for Construction
John A. Gay 7/25/23
John A. Gay, P. E. Date
Director of Public Works

Location Map



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



**MAGGIO ROAD AND ROOD ROAD DRAINAGE
 CONNECTION STORM DRAIN PIPELINE
 IMPROVEMENTS; COUNTY PROJECT NO. 7004GTW**

LOCATION MAP

DRAWN:	BG
DRAWING No.:	L-1053-B
DATE:	06/20/23

S:\PROGRAMS\AUTOCAD DRAWINGS\LOCATION MAPS\1053 STORM DRAIN GATEWAY TOGETHER.DWG
 PLOT DATE: 6/20/2023

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
RSP A20B	Pavement Markers and Traffic Lines - Typical Details
A24D	Pavement Markings - Words
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				
B11-60	04-16-21				
RSP B11-61	04-16-21				
S140	04-16-21				
S141	04-16-21				
S142	04-16-21				
ES-2C	10-19-18				
RSP ES-3A	04-16-21				
RSP ES-3I	10-16-20				
ES-3J	10-16-20				
ES-3L	10-16-20				
ES-7P	04-17-20				

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: <https://dot.ca.gov/programs/design/october-2022-ccs-standard-plans-and-standard-specifications> and as stated in section 2-1.06B.

California Standard Specifications: Also, Standard Specifications: The Standard Specifications dated 2022 Edition of State of California, Department of Transportation.

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

Division of Measurement Standards: Wherever used in the Standard Specifications, shall refer to the Department of Agricultural Commissioner-Weights and Measures of the County of Imperial.

Engineer: The Director of Public Works, acting either directly or through properly authorized agents, such agents acting within the scope of the particular duties delegated to them.

Liquidated Damages: The amount prescribed in the Specifications to be paid to the County or to be deducted from any payments due or to become due the Contractor for each day's delay in completing the whole or any specified portion of the work beyond the time allowed in the specifications.

State of California: Also, State: As used in these Specifications relative to the contract administration, refers to the County of Imperial.

State Contract Act: Chapter 1, Part 2, Division 2 of the Public Contract Code. The provisions of this act and other applicable laws form and constitute a part of the provisions of this contract to the same extent as if set forth herein in full.

Replace *The Department* in the 1st paragraph in section 1-1.08 with:

Caltrans San Diego (SD) 4050 TAYLOR STREET SAN DIEGO, CA 92110-273

Replace the paragraph of section 1-1.12 with:

Make checks and bonds payable to the County of Imperial.

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 Adolfo Garcia, Construction Coordinator.

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 MAGGIO ROAD AND ROOD ROAD DRAINAGE CONNECTION STORM DRAIN PIPELINE IMPROVEMENTS County Project No. 7004GTW"**, to be opened at **2:00p.m., August 25th, 2023**, 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.

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate. Each subcontract signed by the bidder must include this assurance.

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.

bid, as adjusted for additions or deletions resulting from changes in construction. After award of Contract, you will break down and submit the lump sum bid into unit prices for the various portions to be completed.

If the Agency awards the contract, the award is made based on cost and proposed construction schedules, budget availability at time of award, and to the bidder whose proposal complies with all the requirements prescribed.

Replace the paragraphs of section 3-1.02B with:

The Department breaks a tied bid with a coin toss.

Replace the paragraphs of section 3-1.04 with:

Any party with a direct financial interest adversely affected by any alleged bid irregularity at the bid opening may file a protest with the County based on alleged violations of Federal, State, or local law or ordinance, or alleged bid irregularity.

A protest must:

1. Be delivered to 155 S. 11th Street, El Centro, CA 92243
2. Be written
3. State the specific basis of the appeal
4. Request a determination of the protest issue
5. Be filed no later than 72 hours before the scheduled award of Contract by County, as determined by the published agenda of the Board of Supervisors of the County of Imperial. Any protest filed after this time will not be considered.

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.

Within 15 days of receipt of acceptable performance bond, payment bond and agreement signed by you, the County will sign the agreement and return an executed duplicate of the agreement. Should the County not execute the agreement within such period, you may withdraw your signed agreement with written notice. Such notice of withdrawal will be effective upon receipt of the notice by the County.

Add to section 3-1.06:

REQUIRED LICENSES

At the time the Contract is awarded and at all times during construction of the project, the Contractor shall possess and maintain a California contractor's license, Class A (Public Contract Code § 10164).

Replace section 3-1.08 with:

3-1.08 RESERVED

Replace the paragraph of section 3-1.11 with:

Complete and deliver to the Engineer a *Payee Data Record* when requested by the County.

Replace the paragraphs of section 3-1.18 with:

The successful bidder must sign the Contract form. The Contract form is found in the *Bid Book*.

Use contract administration forms designated by the County.

TIME AND MATERIAL ALLOCATION

The Contractor shall provide a rate schedule for all labor and equipment that may reasonably be anticipated for use during the project. Labor rates shall be consistent with those required by the prevailing wage rate requirements of the contract and shall reflect all benefits and employer costs. Once the labor and equipment rates have been approved by the engineer, they will become the basis for compensation for any Time and Material work requested by the County. The Contractor is advised, however, that there will be no compensation from the Time and Material Allocation unless the work has been authorized in writing by the engineer. Additionally, use of the Time and Material Allocation will be at the sole discretion of the County. All or any portion of the allocation amount may be deleted from the Contract. **The Time and Material allocation for this project shall be \$75,000.** This is the number to be used for the bid proposals schedule.

Replace the paragraphs of Section 5-1.13A with:

No subcontract releases the Contractor from the contract or relieves the Contractor of their responsibility for a subcontractor's work.

If the Contractor violates Public Contract Code § 4100 et seq., the County of Imperial may exercise the remedies provided under Public Contract Code § 4110. The County of Imperial may refer the violation to the Contractors State License Board as provided under Public Contract Code § 4111.

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.

PROMPT PAYMENT OF WITHHELD FUNDS TO 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 Section 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 and/or the Imperial Irrigation District and any other agencies that may be affected by the project in order to obtain any required authorization to access, construct, and permit to operate.

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.

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 your expense, including any agency permit fees.

Replace section 5-1.24 with:

SURVEYING

The contractor shall use a person 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 & 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

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 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 ^a	Section 52-1.02B, "Bar Reinforcement" Excludes epoxy-coated or galvanized reinforcement uses.
Structural steel ^b	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 ^c	Section 99, "Building Construction"
Mineral wool board insulation ^d	Section 99, "Building Construction"

^aFor each mill providing 20,000 pounds or more on the project

^bFor each mill providing 5,000 pounds or more on the project

^cFor each manufacturer providing 2,000 square feet or more on the project

^dFor 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

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.

Replace Reserved 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 for the various items of work 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) Dynamic Consulting Engineers, 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

10. Furnishing of construction schedule, contract price breakdown (schedule of values) and submittal schedules.
11. Complying with the Air Pollution Control District permit requirements and paying the associated fees.
12. Paying other miscellaneous fees.

Add to section 9-1.16D:

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.

Add to section 9-1.17D:

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.

The contract price paid for Prime Contractor Identity Signs and California Labor Law/EEO and OSHA 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.

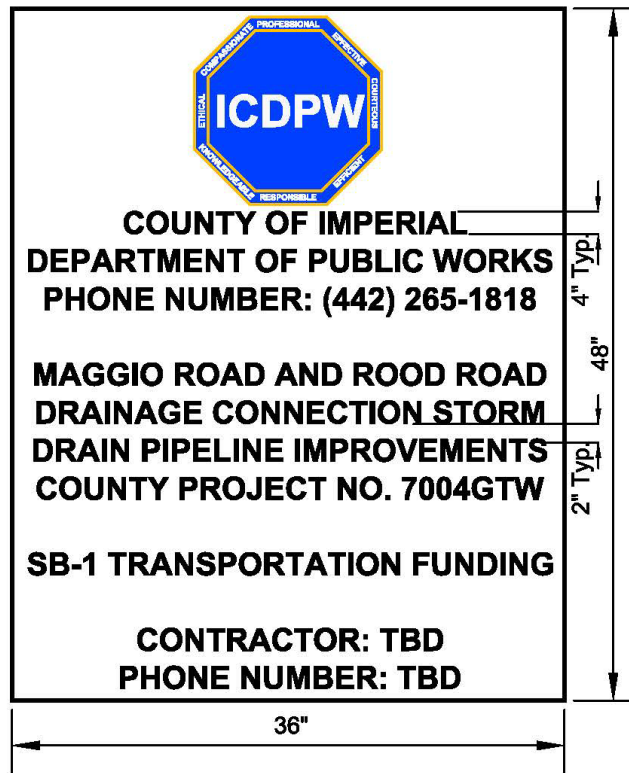
Replace reserved in Section 12-3.11D with:

PAYMENT

Full compensation for furnishing, installing, and maintaining project identification signs, shall be considered as included in the contract price paid in lump sum for “Temporary Traffic Control” and no additional compensation will be allowed therefore.

Add to Section 12-4.02D:

Full compensation for furnishing, installing, and maintaining a traffic control system which includes the temporary traffic control devices in accordance to section 12-3, shall be considered as included in the contract price paid in lump sum for “Temporary Traffic Control” and no additional compensation will be allowed therefore.

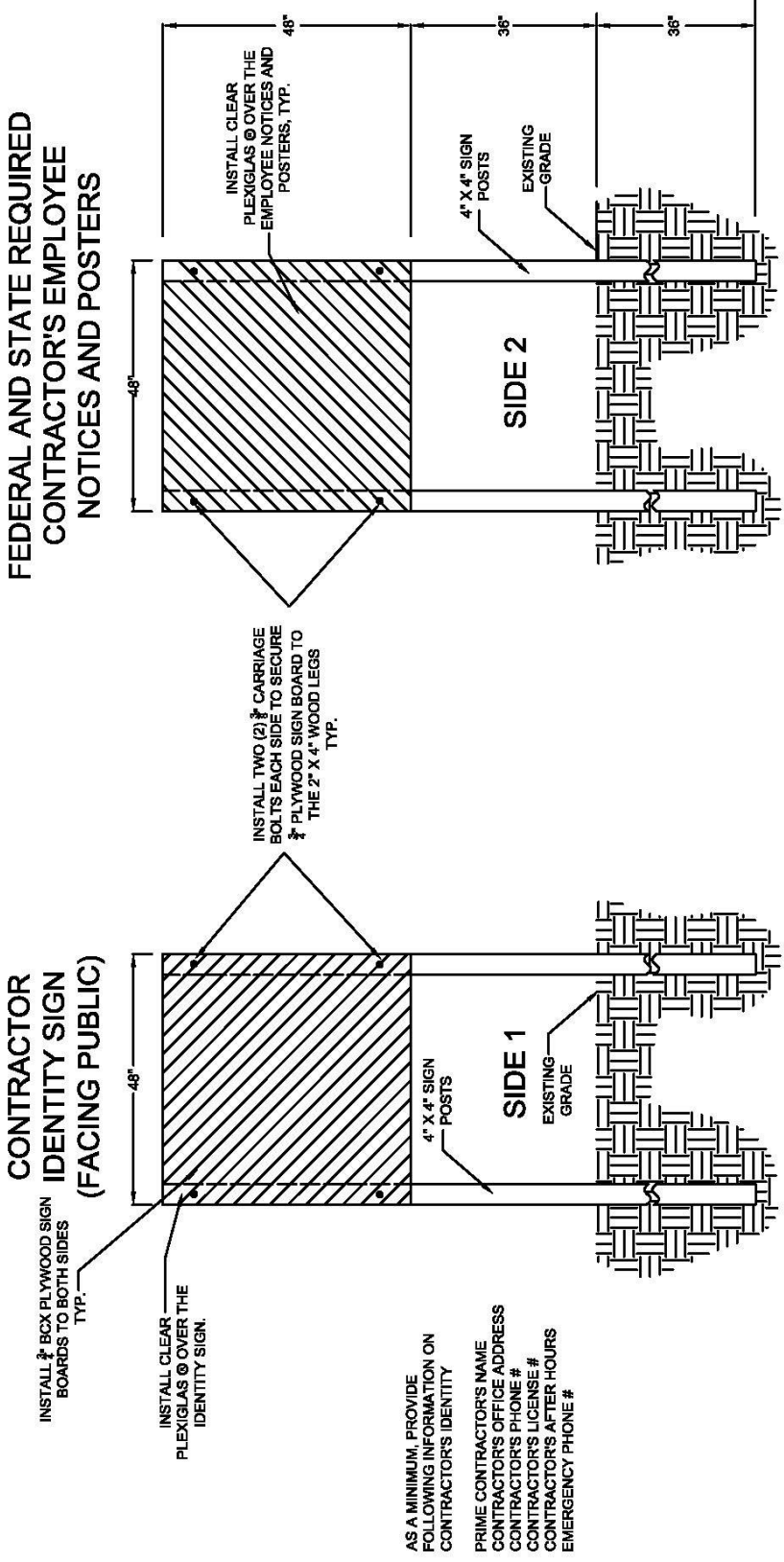


NOTES:

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

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 AWARDED AGENCY. IF TWO (2) SEPARATE SIGNS ARE INSTALLED, PLACE THOSE SIGNS IN CLOSE PROXIMITY.

NOT TO SCALE

A. The Contractor shall submit the following to the Construction Manager 10 days prior to commencement of the Site Work:

1. Submit 3 copies of the SWPPP updated to incorporate the means and methods of the Contractor's planned construction and allow 5 working days for the Construction Manager's review. If revisions are required, the Construction Manager will provide comments to the Contractor timely.

2. Contractor is to change and resubmit the SWPPP within 3 working days of receipt of the Construction Manager's comments. The Construction Manager's review resumes when the revised SWPPP is resubmitted.

3. Submit an electronic and 4 printed copies of the revised SWPPP. Electronic copy shall be in PDF format and include all signed signature pages, Site Maps, and components required by the California Construction General Permit. The electronic copy shall additionally be posted to SMARTS by the Contractor's DEP.

4. If the Construction Manager requests changes to the SWPPP based on RWQCB comments, amend the SWPPP within 5 working days.

B. The Contractor shall submit all inspection reports and documents as required by the CA CGP, including but not limited to:

1. Rain Event information for Qualifying Rain Events (QRE) and associated storm event monitoring data. QRE and sampling data shall be submitted to the CM within 5 days of sample collection.

2. NAL Exceedance Reports, if requested by the RWQCB, in accordance with permit requirements.

3. Inspection Reports (Routine BMP, Pre-Storm, Post-Storm, During Storm, and Quarterly Non-Storm Water). Submit to the CM on a monthly basis.

C. Annual Reports

1. The Contractor shall complete the Stormwater Annual Report, using forms on SMARTS system for the reporting period of July 1 to June 30, or the Contractor's period of work if work is performed during a subset of the annual reporting period:

2. If construction occurs from July 1 through June 30, submit to Construction Manager no later than July 15 for the prior reporting period

3. If construction ends before June 30, then submit to Construction Manager within 15 calendar days after completion of all Work on the contract

4. The Contractor shall follow this process for Stormwater Annual Report submittal:

a. Submit 2 hardcopies of the Stormwater Annual Report and allow 10 working days for the Construction Manager's review. The Annual Report should be generated using project-specific forms on the SMARTS system and be completed by the DEP. Hard copies to be generated after the completion check in SMARTS by printing a pdf from SMARTS for County review. If revisions are required, the Construction Manager provides comments and specifies the date that the review stopped.

b. Change and resubmit the Stormwater Annual Report, by updating forms in SMARTS and regenerating a printed version, within 5 working days of receipt of the Construction Manager's comments. The Construction Manager's review resumes when the revised Stormwater Annual Report is resubmitted.

c. When the Construction Manager accepts the Stormwater Annual Report, the LRP will certify the Annual Report in SMARTS.

d. The contractor shall submit an electronic and 2 printed copies of the accepted Stormwater Annual Report. Electronic copy shall be in PDF format.

PART 2 – PRODUCTS

2.01 MATERIALS

A. Materials used for Erosion and Sediment Control including, but not limited to, silt fencing, fiber rolls, sand bags, gravel bags, and hydromulch shall conform to the requirements outlined in the SWPPP.

PART 3 – EXECUTION

3.01 GENERAL

A. The Contractor is advised that work under this contract shall be subject to the requirements of the National Pollutant Discharge Elimination System (NPDES) general requirements.

The Contractor shall be responsible for:

1. Filing a Change of Information (COI) within the existing project in SMARTS. The Contractor shall prepare and pay for filing of the COI, if applicable.

2. Update the Storm Water Pollution Prevention Plan (SWPPP) as necessary for the construction of this project. Construction related activities, including but not limited to the elements of the SWPPP, shall be performed to eliminate both storm water and nonstorm discharges to storm water control system, by Contractor and subcontractor(s). The Construction Manager will notify Contractor of any non-compliance with the foregoing stipulations and appropriate actions shall be taken promptly. Contractor shall also notify the Construction Manager of any condition which could lead to noncompliance with the permit requirements.

B. Contractor shall not be entitled to any time extensions or compensation for any cost due to any action required as a result of Contractor's failure to comply with those provisions of the SWPPP within Contractor's control. Contractor will be responsible for ensuring that Contractor's subcontractor(s) comply with the provisions of this Section. Contractor shall be liable for any action or fine imposed by the regulatory agencies on those incidents of noncompliance which are within Contractor's area of responsibility.

C. The Contractor shall exercise every reasonable precaution to protect canals, channels, storm drains and bodies of water from pollution, including siltation arising from Contractor's operations, or erosion siltation from completed areas. Pollution control work shall consist of implementing practices or constructing facilities in accordance with local, state, or federal

regulations which may be required to provide for retention and control of pollutants. The Contractor shall control site water in accordance with applicable permits.

D. The Contractor shall:

1. Control and manage storm water runoff;
2. Control discharges from dewatering activities;
3. Direct use of water for dust control;
4. Control water levels in all storm water sedimentation ponds on the site; and
5. Remove ponded water on-site within 72 hours.

E. At the completion of each work day, the Contractor shall take all necessary preventive measures to avoid or minimize damage resulting in erosion or impounding caused by storm water runoff within the construction area. Erosion control measures shall consist of constructing sandbag berms, desilting basins, drains, temporary storm water pumping facilities, and other such measures required to provide for the prevention, control and abatement of storm water discharges and damage resulting therefrom. The cost for any repairs due to such damage shall be the sole responsibility of the Contractor. Adequate runoff water control shall be maintained at all times in waste excavation areas so that water is prevented from flowing from areas where waste is exposed to uncontaminated areas.

F. The Contractor shall install temporary drainage piping to control overland flow, route natural drainage under temporary roadways, and intercept groundwater flows, if necessary. The Contractor shall select the size and type of piping to be used, and shall be responsible for the performance of the temporary piping. The Contractor shall adequately compact materials around the drainage piping to ensure protection of the piping and adequacy of fill over the piping. The Contractor shall perform regular maintenance of any temporary piping as necessary to prevent plugging or reduced capacity.

G. Water coming into contact with waste shall be handled and disposed of as contaminated.

H. It is anticipated that nuisance water, such as rainfall or surface runoff, may be encountered within the construction site during the period of construction under this contract. The Contractor, by submitting his bid, will be held to have investigated the risks arising from such waters and to have made his bid in accordance therewith.

I. The Contractor shall at all times protect the work from damage by such waters and shall take all due measures to prevent delays in progress of the work caused by such waters. The cost for any repairs due to such damage shall be the responsibility of the Contractor. The Contractor shall dispose of nuisance water at his own expense and without adverse effects upon the work site or any other property.

PART 4 – MEASUREMENT AND PAYMENT

4.01 GENERAL

Full compensation for preparation of a Storm Water Pollution Prevention Plan and all submittals described in Section 13-3 including Storm water Annual Reports, shall be considered as included in the contract price paid per lump sum for “Water Pollution & Erosion Control” and no separate or additional payment shall be considered therefor. If a SWPPP is

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. 7004GTW

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 2022 Edition of the 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 , **2023** and are entitled:

**COUNTY OF IMPERIAL
DEPARTMENT OF PUBLIC WORKS**

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

**MAGGIO ROAD AND ROOD ROAD DRAINAGE CONNECTION
STORM DRAIN PIPELINE IMPROVEMENTS
COUNTY OF IMPERIAL PROJECT No. 7004GTW**

The project plans for the work to be done were adopted: **June 28, 2023** and are entitled:

**MAGGIO ROAD AND ROOD ROAD DRAINAGE CONNECTION
STORM DRAIN PIPELINE IMPROVEMENTS
COUNTY OF IMPERIAL PROJECT No. 7004GTW**

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

Item No.	ITEM DESCRIPTION	UNIT	ESTIMATED QUANTITY	UNIT PRICE	TOTAL
1	MOBILIZATION	LS	1	\$	\$
2	TEMPORARY TRAFFIC CONTROL	LS	1	\$	\$
3	60" STORM DRAIN	LF	2,209	\$	\$
4	48" STORM DRAIN	LF	1,226	\$	\$
5	18" STORM DRAIN	LF	714	\$	\$
6	18" STORM DRAIN STUB-OUT	LF	20	\$	\$
7	6" STORM DRAIN SERVICE*	EA	10	\$	\$
8	48" DIAM. SD MANHOLE	EA	2	\$	\$
9	6'X4' SD JUNCTION BOX	EA	3	\$	\$
10	8'X8' SD JUNCTION BOX	EA	6	\$	\$
11	8' X8' INDIAN WELLS JUNCTION BOX	EA	2	\$	\$
12	12" STORM DRAIN*	LF	142	\$	\$
13	SURVEYING & CONSTRUCTION STAKING	LS	1	\$	\$
14	WATER POLLUTION & EROSION CONTROL	LS	1	\$	\$
15	MONUMENT PRESERVATION/PERPETUATION	LS			
16	TIME AND MATERIAL ALLOCATION	LS	1	\$75,000	\$75,000

(*) SDR 35 PVC, OR APPROVED EQUAL

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

PUBLIC CONTRACT CODE SECTION 10285.1 STATEMENT

In conformance 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 checkmark 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.

PUBLIC CONTRACT CODE SECTION 10162 QUESTIONNAIRE

In conformance 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 CODE 10232 STATEMENT

In conformance 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.

**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.

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.

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

<p>1. Type of Federal Action:</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>2. Status of Federal Action:</p> <p><input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award</p>	<p>3. Report Type:</p> <p><input type="checkbox"/> a. initial <input type="checkbox"/> b. material change</p> <p align="right">For Material Change Only: year _____ quarter _____ date of last report _____</p>
<p>4. Name and Address of Reporting Entity</p> <p><input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known</p> <p align="center">Congressional District, if known</p>	<p>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</p> <p align="center">Congressional District, if known</p>	
<p>6. Federal Department/Agency:</p>	<p>7. Federal Program Name/Description:</p> <p align="right">CFDA Number, if applicable _____</p>	
<p>8. Federal Action Number, if known:</p>	<p>9. Award Amount, if known:</p>	
<p>10. a. Name and Address of Lobby Entity (If individual, last name, first name, MI)</p>	<p>b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI)</p>	
(attach Continuation Sheet(s) if necessary)		
<p>11. Amount of Payment (check all that apply)</p> <p>\$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned</p>	<p>13. Type of Payment (check all that apply)</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>12. Form of Payment (check all that apply):</p> <p><input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ value _____</p>		
<p>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:</p> <p align="center">(attach Continuation Sheet(s) if necessary)</p>		
<p>15. Continuation Sheet(s) attached: Yes <input type="checkbox"/> No <input type="checkbox"/></p>		
<p>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.</p>		
		<p>Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____</p>
<p>Federal Use Only:</p>		<p>Authorized for Local Reproduction Standard Form - LLL</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. 06-04-90(ENRIF)

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.

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AGREEMENT FOR CONSTRUCTION SERVICES

<<Business Name>>

THIS AGREEMENT FOR CONSTRUCTION SERVICES (“Agreement”), made and entered into effective the ____ day of _____, 2023, by and between the COUNTY OF IMPERIAL, a political subdivision of the State of California, through its Department of Public Works (“COUNTY”) and <<Business Name>>, a «Consultant_Business_Type» licensed to do business within the state of California (“CONTRACTOR”) (individually, “Party;” collectively, “Parties”) shall be as follows:

RECITALS

WHEREAS, COUNTY desires to retain a qualified individual, firm or business entity to provide professional construction services for <<Project Description>> (“Project”); and

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

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

1. DEFINITIONS.

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

1.2. “Proposal” shall mean CONTRACTOR’s document entitled “«Name_of_Proposal»,” dated «Date_of_Proposal» and submitted to the Clerk of the Board. The Proposal is attached hereto as **Exhibit “B”** and incorporated herein as though fully set forth.

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

2. CONTRACT COORDINATION.

2.1. The Director of Public Works or his/her designee shall be the representative of COUNTY

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

4 **2.2.** CONTRACTOR shall assign a single Contract Manager to have overall responsibility for
5 the progress and execution of this Agreement. Should circumstances or conditions
6 subsequent to the execution of this Agreement require a substitute Contract Manager for any
7 reason, the Contract Manager designee shall be subject to the prior written acceptance and
8 approval of COUNTY's Contract Manager.

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

10 **3.1.** CONTRACTOR shall furnish all work, labor, tools, equipment, materials, supervision,
11 scheduling, coordination and contract administration necessary to construct and complete
12 the Project in a good, expeditious, workman-like and substantial manner under the terms of
13 and in full and complete compliance with this Agreement ("Work").

14 **3.2.** CONTRACTOR shall comply with and perform work consistent with all terms,
15 conditions and requirements of the Plans, Specifications, the Invitation for Bids and this
16 Agreement.

17 **3.3.** All described work shall be constructed, installed, placed and performed in conformance
18 with the Plans and Specifications and all Special Provisions contained therein and as directed
19 by COUNTY's engineer.

20 **3.4.** In the event of a conflict among this Agreement, the Invitation for Bid and the Proposal, the
21 Invitation for Bid shall take precedence over the Proposal and this Agreement shall take
22 precedence over both.

23 **3.5.** CONTRACTOR shall perform such other tasks as necessary and proper for the full
24 performance of the obligations assumed by CONTRACTOR hereunder; including but not
25 limited to any additional work or change orders agreed upon pursuant to written
26 authorization as described in Section 5. Proposed additional work or change order requests,
27 when applicable, will be attached and incorporated herein under **Exhibit "B"** (as "B-1," "B-
28 2," etc.).

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4. TRENCHING REQUIREMENTS AND UTILITY RELOCATION.

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

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

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

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

4.1.3. In the event that a dispute arises between COUNTY and CONTRACTOR whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in CONTRACTOR's cost of, or time required for, performance of any part of the Work, CONTRACTOR shall not be excused from any scheduled completion date provided for by this Agreement, but shall proceed with all Work to be performed under this Agreement. CONTRACTOR shall retain any and all

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rights provided either by contract or by law which pertain to the resolution of disputes and protests between the Parties.

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

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

5. CHANGE ORDERS.

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

1 confirm approval thereof. COUNTY may order additional work, and CONTRACTOR shall
2 perform such changes in the Work as directed by COUNTY in any Change Order prepared
3 by CONTRACTOR. COUNTY's rights to eliminate portions of the Work or to initiate a
4 Change Order shall not be limited in any way. The Change Order shall be in writing and
5 shall include:

6 **5.1.1.** Any and all supporting documents and drawings depicting the source and location
7 of the desired change, and explain in detail the field conditions and reasons for the
8 requested change;

9 **5.1.2.** Any change or adjustment to the compensation set forth in this Agreement as a result
10 of changes in the Work based on a lump sum or time and material basis, as may be
11 directed by COUNTY; and

12 **5.1.3.** Any request for adjustments to time for completion of the Project.

13 **5.2.** Payment for Change Order Work. CONTRACTOR shall not be entitled to receive any
14 compensation for work, labor, materials or changes of any kind, regardless of whether
15 ordered by COUNTY or any of its representatives, unless a Change Order has been
16 submitted in writing and approved prior to the commencement of any Change Order Work
17 as described above. If the changes are required by any inspecting governmental agencies or
18 utility companies, or are otherwise required to comply with any codes, laws, rules or
19 regulations, including those set forth in this Agreement, then CONTRACTOR shall not be
20 entitled to any increases in the compensation set forth in this Agreement or other
21 compensation as a result of the changes.

22 **5.3.** Disputed Change Order Work. Any dispute concerning the performance of such Change
23 Order Work or the amount of compensation to be paid to CONTRACTOR by COUNTY
24 shall not affect CONTRACTOR's obligation to perform such Change Order Work.
25 CONTRACTOR agrees that it shall timely complete all Change Order Work even if there
26 shall be a dispute between CONTRACTOR and COUNTY over the amount or scope of the
27 Change Order Work. CONTRACTOR shall have the right to be compensated for any
28 undisputed Change Order Work amounts as determined to be undisputed in COUNTY's

1 sole discretion.

2 **5.4. Authorized Representative.** No Change Order shall be valid or binding against COUNTY
3 unless such Change Order has been executed by COUNTY’s designated representative, who
4 is the Director of Public Works. COUNTY shall notify CONTRACTOR in writing if the
5 designated representative is changed.

6 **5.5. Limits.** When applicable, the authority to execute a Change Order on this Project shall not
7 exceed the amount allowed by law pursuant to Public Contract Code sections 20137-20142
8 et seq. Where Change Orders are in an amount between ten percent (10%) and twenty-five
9 percent (25%) of the amount set forth in this Agreement and based on a need for additional
10 quantities due to an increase in the unit quantities required to complete the project in excess
11 of the COUNTY’s Engineer’s estimate of unit quantities as set forth in the Invitation to Bid,
12 CONTRACTOR shall be paid pursuant to Public Contract Code sections 20143 and 20139
13 and section 4 of the Standard Specifications, State of California, Business, Transportation
14 and Housing Agency, May 2006 Issued by the Department of Transportation (“Caltrans
15 Standard Specifications”) referred to in **Exhibit “A”** and incorporated herein by reference.

16 **6. REPRESENTATIONS BY CONTRACTOR.**

17 **6.1.** CONTRACTOR understands and agrees that COUNTY has limited knowledge in the
18 construction specified in the description of work. CONTRACTOR has represented itself to
19 be expert in these fields and understands that COUNTY is relying upon such representation.

20 **6.2.** CONTRACTOR represents and warrants that it is a lawful entity possessing all required
21 licenses and authorities to do business in the State of California and perform all aspects
22 of this Agreement.

23 **6.3.** CONTRACTOR shall not commence any work under this Agreement or provide any
24 other services, or materials, in connection therewith until CONTRACTOR has received
25 written authorization from the Director of Public Works, or his/her designee (“Notice to
26 Proceed”) to do so.

27 **6.4.** CONTRACTOR represents and warrants that the people executing this Agreement on
28 behalf of CONTRACTOR have the authority of CONTRACTOR to sign this Agreement

1 and bind CONTRACTOR to the performance of all duties and obligations assumed by
2 CONTRACTOR herein.

3 **6.5.** CONTRACTOR represents and warrants that any employee, contractor, subcontractor and
4 agent who will be performing any of the duties and obligations of CONTRACTOR herein
5 possess all required licenses and authorities, as well as the experience and training, to
6 perform such tasks.

7 **6.6.** CONTRACTOR represents and warrants that the allegations contained in its Proposal are
8 true and correct.

9 **6.7.** CONTRACTOR understands that COUNTY considers the representations made herein
10 to be material and would not enter into this Agreement with CONTRACTOR if such
11 representations were not made.

12 **6.8.** Retention and Access of Books and Records. CONTRACTOR represents and warrants
13 that it shall maintain books, records, documents, reports and other materials developed
14 under this Agreement as follows:

15 **6.8.1.** CONTRACTOR shall hold and possess as the property of COUNTY all papers,
16 books, files, correspondence and other records of all kinds which at any time shall
17 come into its possession or under its control relating only to services performed
18 by CONTRACTOR under this Agreement for a minimum period of five (5) years,
19 or for any longer period required by law, from the date said papers came into the
20 possession of CONTRACTOR pursuant to this Agreement.

21 **6.8.2.** Any records or documents required to be maintained by CONTRACTOR
22 pursuant to this Agreement shall be made available to COUNTY for inspection or
23 audit, at any time during CONTRACTOR's regular business hours provided
24 COUNTY provides CONTRACTOR with seven (7) days advanced written or oral
25 notice. Copies of such documents shall, at no cost to COUNTY, be provided to
26 COUNTY for inspection at CONTRACTOR's address indicated for receipt of
27 notices under this Agreement.

28 **6.8.3.** CONTRACTOR shall surrender all papers maintained by CONTRACTOR

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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 statutes, 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 <<Compensation Amount>>

9. PAYMENT AND RETENTION OF FUNDS.

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

3 **9.1. Retention.**

4 **9.1.1.** In accordance with Cal. Pub. Contract Code §§ 7201 and 9203, COUNTY shall
5 generally retain five percent (5%) of the total compensation payable under this
6 Agreement until the Work to be performed has been completed in accordance with
7 this Agreement, as determined by COUNTY, and payment in full of all of
8 CONTRACTOR's subcontractors has been certified.

9 **9.1.2.** The 5% retention amount may be exceeded if the COUNTY's Board of Supervisors
10 has approved a finding, during a properly noticed and normally scheduled public
11 hearing conducted either prior to or concurrent with authorizing this Project to go
12 out to bid, that the Project is substantially complex and therefore requires a higher
13 retention amount than 5%. Should the retention amount exceed 5% for this Project,
14 then the actual retention amount will be listed in the Plans and Specifications, along
15 with the findings justifying the increased retention amount.

16 **9.2. Substitution of Retention.**

17 **9.2.1.** CONTRACTOR may elect to substitute securities for any retention of funds by
18 COUNTY to ensure performance under this Agreement. At the request and
19 expense of CONTRACTOR, securities equivalent to the amount retained shall be
20 deposited with the COUNTY, or with a state or federally chartered bank in this state
21 as the escrow agent, who shall then return the securities to CONTRACTOR once
22 the Work to be performed has been completed in accordance with this Agreement,
23 as determined by COUNTY, and payment in full of all of CONTRACTOR's
24 subcontractors has been certified.

25 **9.2.2.** Alternatively, CONTRACTOR may request and COUNTY shall make payment of
26 retentions earned directly to the escrow agent at the expense of CONTRACTOR.
27 CONTRACTOR, at its sole cost and expense, may direct the investment of the
28 payments into securities, and CONTRACTOR shall receive the interest earned on

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

8 **9.2.3.** Securities eligible for investment under this Section shall include those listed in Cal.
9 Gov. Code § 16430, bank or savings and loan certificates of deposit, interest-bearing
10 demand deposit accounts, standby letters of credit, or any other security mutually
11 agreed to by COUNTY and CONTRACTOR. CONTRACTOR shall be the
12 beneficial owner of any securities substituted for retained funds and shall receive
13 any interest thereon.

14 **9.2.4.** Substitution of securities shall be conducted through an Escrow Agreement
15 substantially similar to that found in Cal. Pub. Contract Code § 22300(f).

16 **9.2.5.** Notwithstanding any other provision in this Section, substitution of securities is
17 prohibited where funding for the Project, in whole or in part, will be provided by
18 the Farmers Home Administration of the United States Department of Agriculture
19 pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. Sec. 1921
20 et seq.), or where otherwise disallowed by federal law.

21 **10. METHOD OF PAYMENT.**

22 **10.1.** CONTRACTOR shall at any time prior to the fifteenth (15th) day of any month, submit
23 to COUNTY's Director of Public Works or his/her designee, a complete and accurate
24 written claim for compensation for services performed. The claim shall be in a format
25 approved by COUNTY. COUNTY shall make no payment prior to the claims being
26 approved in writing by the Director of Public Works or his/her designee.

27 **10.2.** After determining that the claim is a proper payment request, the Director of Public
28 Works, or his/her designee, shall submit to COUNTY's Auditor/Controller undisputed

1 and properly submitted claims approved for payment within ten (10) days following the
2 date the claim was submitted to his/her Department.

3 **10.3.** CONTRACTOR may expect to receive payment within a reasonable time thereafter and
4 in any event in the normal course of business within thirty (30) days after the undisputed
5 and properly submitted claim is submitted.

6 **10.4.** Any claim determined to be an improper payment request shall be returned to
7 CONTRACTOR as soon as practicable, but not later than seven (7) days, after receipt with
8 a written explanation as to why the claim is an improper request for payment.

9 **10.5.** In order for prompt payment to be made by COUNTY pursuant to Public Contract Code
10 §20104.50, CONTRACTOR must properly fill out all written claims for compensation for
11 services performed.

12 **10.6.** COUNTY shall pay interest at the legal rate set forth in Code of Civil Procedure §685.010
13 in the event payment is not made within thirty (30) days of an undisputed properly submitted
14 request.

15 **11. INDEMNIFICATION.**

16 **11.1.** CONTRACTOR agrees to the fullest extent permitted by law to indemnify, defend,
17 protect and hold COUNTY and its representatives, officers, directors, designees,
18 employees, agents, successors and assigns harmless from any and all claims, expenses,
19 liabilities, causes of action, demands, losses, penalties, attorneys' fees and costs, in law
20 or equity, of every kind and nature whatsoever arising out of or in connection with
21 CONTRACTOR's negligent acts and omissions or willful misconduct under this
22 Agreement ("Claims"), whether or not arising from the passive negligence of COUNTY,
23 but does not include Claims that are finally determined to be the result of the sole
24 negligence or willful misconduct of COUNTY.

25 **11.2.** CONTRACTOR agrees to defend with counsel acceptable to COUNTY, indemnify and
26 hold COUNTY harmless from all Claims, including but not limited to:

27 **11.2.1.** Personal injury, including but not limited to bodily injury, emotional injury,
28 sickness or disease or death to persons including but not limited to COUNTY's

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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;

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

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

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

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

12. INDEPENDENT CONTRACTOR

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

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

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

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

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

12.6. CONTRACTOR shall not be entitled to participate in, or receive any benefit from, or

1 make any claim against any COUNTY fringe benefit program, including, but not limited
2 to, COUNTY's pension plan, medical and health care plan, dental plan, life insurance
3 plan, or any other type of benefit program, plan, or coverage designated for, provided to,
4 or offered to COUNTY's employee.

5 **12.7.** COUNTY shall not withhold or pay, on behalf of CONTRACTOR, any Federal, State,
6 or local tax, including, but not limited to, any personal income tax, owed by
7 CONTRACTOR.

8 **12.8.** CONTRACTOR is, and at all times during the term of this Agreement shall represent and
9 conduct itself as, an independent contractor, not an employee of COUNTY.

10 **12.9.** CONTRACTOR shall not have the authority, express or implied, to act on behalf of, bind
11 or obligate COUNTY in any way without the written consent of COUNTY.

12 **13. INSURANCE.**

13 **13.1.** CONTRACTOR hereby agrees at its own cost and expense to procure and maintain,
14 during the entire term of this Agreement and any extended term therefore, insurance in a
15 sum acceptable to COUNTY and adequate to cover potential liabilities arising in
16 connection with the performance of this Agreement and in any event not less than the
17 minimum limit set forth in the "Minimum Insurance Amounts" attachment to the Plans
18 and Specifications which are incorporated as if set forth fully herein.

19 **13.2. Special Insurance Requirements.** All insurance required shall:

20 **13.2.1.** Be procured from California admitted insurers (licensed to do business in
21 California) with a current rating by Best's Key Rating Guide, acceptable to
22 COUNTY. A rating of at least A-VII shall be acceptable to COUNTY; lesser
23 ratings must be approved in writing by COUNTY.

24 **13.2.2.** Be primary coverage as respects COUNTY and any insurance or self-insurance
25 maintained by COUNTY shall be in excess of CONTRACTOR's insurance
26 coverage and shall not contribute to it.

27 **13.2.3.** Name COUNTY as an additional insured on all policies, except Workers'
28 Compensation, and provide that COUNTY may recover for any loss suffered by

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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;

- 1 (e) Does not contain an “escape clause” which extinguishes the insurer’s
 - 2 liability if the loss is covered by other insurance;
 - 3 (f) Includes COUNTY as an additional insured; and
 - 4 (g) States that it is primary insurance and regards COUNTY as an additional
 - 5 insured and contains a cross-liability or severability of interest clause.
- 6 **13.4. Deposit of Insurance Policy.** Promptly on issuance, reissuance, or renewal of any
- 7 insurance policy required by this Agreement, CONTRACTOR shall, if requested by
- 8 COUNTY, cause to be given to COUNTY satisfactory evidence that insurance policy
- 9 premiums have been paid together with a duplicate copy of the policy or a certificate
- 10 evidencing the policy and executed by the insurance company issuing the policy or its
- 11 authorized agent.
- 12 **13.5. Certificates of Insurance.** Complete copies of certificates of insurance for all required
- 13 coverages including additional insured endorsements shall be attached hereto as **Exhibit**
- 14 **“C”** and incorporated herein as though fully set forth.
- 15 **13.6. Additional Insurance.** Nothing in this, or any other provision of this Agreement, shall be
- 16 construed to preclude CONTRACTOR from obtaining and maintaining any additional
- 17 insurance policies in addition to those required pursuant to this Agreement.
- 18 **14. WORKERS’ COMPENSATION CERTIFICATION.**
- 19 **14.1.** Prior to the commencement of work, CONTRACTOR shall sign and file with COUNTY
- 20 the following certification: “I am aware of the provisions of California Labor Code
- 21 §§3700 et seq. which require every employer to be insured against liability for workers’
- 22 compensation or to undertake self-insurance in accordance with the provisions of that
- 23 code, and I will comply with such provisions before commencing the performance of the
- 24 work of this contract.”
- 25 **14.2.** This certification is included in this Agreement and signature of the Agreement shall
- 26 constitute signing and filing of the certificate.
- 27 **14.3.** CONTRACTOR understands and agrees that any and all employees, regardless of hire
- 28 date, shall be covered by Workers’ Compensation pursuant to statutory requirements

1 prior to beginning work on the Project.

2 14.4. If CONTRACTOR has no employees, initial here: _____.

3 15. **WARRANTY.**

4 15.1. One Year Warranty. CONTRACTOR agrees to provide a one-year warranty for all of its
5 work and component parts and guarantees that all work shall be performed in a
6 professional and workman-like manner and be free from defects. CONTRACTOR
7 guarantees to timely correct all work performed by it under this Agreement which
8 COUNTY determines to be defective in design, material and/or workmanship within a
9 period of one (1) year from the date of the completion of the Work. The warranties set
10 forth in this Agreement shall be in addition to, and not in lieu of, all other statutory and
11 case law warranties and obligations of CONTRACTOR. CONTRACTOR expressly
12 agrees that all warranties made by CONTRACTOR, all obligations under this Agreement
13 and all remedies for breach of such warranties shall survive this Agreement in the event
14 it is terminated or expires for any reason prior to the running of the full warranty periods
15 listed above.

16 15.2. Materials. All materials furnished by CONTRACTOR shall be new, manufactured
17 during the current year, of first quality and carrying full manufacturer’s warranty.
18 CONTRACTOR shall be responsible for any expiration of manufacturer or other
19 warranties of material or equipment being supplied for this Agreement. CONTRACTOR
20 guarantees that all warranties of material and equipment shall become effective when the
21 project is accepted by COUNTY’s Board of Supervisors, not at time of installation by
22 CONTRACTOR.

23 15.3. Manufacturers’ Warranty Information. CONTRACTOR agrees to promptly provide such
24 information and maintenance recommendations to COUNTY at the inception of
25 CONTRACTOR’s work to the extent such information is reasonably available.

26 16. **DEFAULT AND REMEDIES.**

27 16.1. Default. In the event that (i) CONTRACTOR files a petition requesting relief under any
28 bankruptcy act, or is adjudged as bankrupt, or makes a general assignment for the benefit

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

19 **16.1.1.** Without terminating this Agreement or the obligations of CONTRACTOR
20 hereunder as to all of the Work required to be performed or furnished by
21 CONTRACTOR pursuant to this Agreement, COUNTY may require
22 CONTRACTOR, at CONTRACTOR's expense, to cure such default(s) as may
23 exist in the performance of CONTRACTOR's obligations hereunder within forty-
24 eight (48) hours after such default(s) has/have occurred including but not limited
25 to repairing, replacing and correcting material or Work determined by COUNTY
26 to be defective or not complying with the requirements of this Agreement. Should
27 CONTRACTOR fail to timely repair, replace and/or correct non-complying or
28 defective materials and workmanship or otherwise cure its default(s) hereunder,

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and in the case of emergencies in which case COUNTY may act immediately if CONTRACTOR is not available or is not responding, and without further notice, COUNTY may make required repairs, replacements and other corrections or otherwise remedy the default by CONTRACTOR pursuant to the subparagraph below.

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

16.1.3. COUNTY may terminate CONTRACTOR’s right to perform upon written notice and COUNTY shall then have the option of completing the Work or any portion thereof by exercise of its interest under the performance bond issued in favor by CONTRACTOR, or having such Work in whole or in part be completed by others for CONTRACTOR’s account. A calculation shall take place at the conclusion of the Project wherein to the degree the sum of COUNTY’s costs and any amounts paid to complete the Project exceed the compensation payable pursuant to this

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Agreement, then any such excess shall be immediately due and owing from CONTRACTOR to COUNTY.

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

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

16.4. Limit on Force Majeure Damages. CONTRACTOR shall not be responsible for repairing or restoring damage to work caused by an act of God in excess of five (5) percent of the contract amount, provided that the work damaged is built in accordance with accepted and applicable building standards and the plans and specifications of COUNTY. In the event of such damage, COUNTY may, at its option, elect to terminate this Agreement. For purposes of this Agreement, an “act of God” shall be defined as an earthquake in excess of 3.5 on the Richter Scale and a tidal wave.

16.5. Resolution of Claims. COUNTY and CONTRACTOR agree to follow and comply with

1 the mediation, arbitration, claim, civil action procedure and trial de novo provisions set
2 forth in California Public Contracts Code §§ 9204 and 20104 – 20104.6.

3 **16.6. No Limitation of Rights.** The options and rights granted to COUNTY herein shall not be
4 deemed as limitations upon the other rights and remedies of COUNTY in the event of a
5 failure of performance or breach by CONTRACTOR, and COUNTY shall be entitled to
6 exercise the rights and remedies hereinabove specified and all other rights and remedies
7 which may be provided in this Agreement or by law or in equity, either cumulatively or
8 consecutively, and in such order as COUNTY in its sole discretion shall determine.

9 **17. NON-DISCRIMINATION.**

10 **17.1.** During the performance of this Agreement, CONTRACTOR and its subcontractors shall
11 not unlawfully discriminate, harass or allow harassment against any employee or
12 applicant for employment because of sex, race, color, ancestry, religious creed, national
13 origin, physical disability (including HIV and AIDS), mental disability, medical
14 condition (cancer), age (over forty (40)), marital status and denial of family care leave.

15 **17.2.** CONTRACTOR and its subcontractors shall insure that the evaluation and treatment of
16 their employees and applicants for employment are free from such discrimination and
17 harassment.

18 **17.3.** CONTRACTOR and its subcontractors shall comply with the provisions of the Fair
19 Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable
20 regulations promulgated thereunder (California Code of Regulations, Title 2, Section
21 7285 et seq.).

22 **17.4.** The applicable regulations of the Fair Employment and Housing Commission
23 implementing Government Code §12990 (a-f), set forth in Chapter 5 of Division 4 of
24 Title 2 of the California Code of Regulations, are incorporated into this Agreement by
25 reference and made a part hereof as if set forth in full.

26 **17.5.** The applicable regulations of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C.
27 §794 (a)) are incorporated into this Agreement by reference and made a part hereof as if
28 set forth in full.

1 **17.6.** CONTRACTOR and its subcontractors shall give written notice of their obligations under
2 this clause to labor organizations with which they have a collective bargaining or other
3 agreement.

4 **17.7.** CONTRACTOR shall include the nondiscrimination and compliance provisions of this
5 clause in all subcontracts to perform Work under this Agreement.

6 **18. DISADVANTAGED BUSINESS ENTITY COMPLIANCE.**

7 **18.1.** When applicable, CONTRACTOR and its subcontractors shall reference and abide by
8 the guidance and Disadvantaged Business Enterprise (“DBE”) specifications contained
9 in the California Department of Transportation’s Standard Specifications.

10 **18.2.** CONTRACTOR represents and warrants that is has fully read the applicable DBE
11 requirements pertaining to this Project and has fully and accurately completed any and
12 all required DBE forms.

13 **18.3.** CONTRACTOR represents and warrants that it will comply with all applicable DBE
14 requirements for this Project.

15 **18.4.** CONTRACTOR shall comply with the applicable DBE provisions attached hereto as
16 **Exhibit “D”** and incorporated by this reference as though fully set forth herein.

17 **18.5.** If any state or federal funds are withheld from COUNTY or not reimbursed to COUNTY
18 due to CONTRACTOR’s failure to either comply with the DBE requirements set forth in
19 the RFP and this Agreement, or to meet the mandatory DBE goals as determined by
20 COUNTY, Caltrans, the Federal Highway Administration, and/or any other state or
21 federal agency contributing funds to the Project, then CONTRACTOR shall fully
22 reimburse COUNTY the amount of funding lost. COUNTY reserves the right to deduct
23 any such loss in funding from the amount of compensation due to CONTRACTOR under
24 this Agreement.

25 **18.6.** In addition to the above, CONTRACTOR’s failure to comply with DBE
26 requirements/goals shall subject it to such sanctions as are permitted by law, which may
27 include, but shall not be limited to the following:

28 **18.6.1.** Termination of this Agreement;

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- 18.6.2. Withholding monthly progress payments;
- 18.6.3. Denial of payment for any portion of the Project that was committed at the time of the execution of this Agreement to be performed by a DBE subcontractor, but was completed by CONTRACTOR or a substitute non-DBE subcontractor;
- 18.6.4. Compensatory, special, incidental, liquidated and other damages; and/or
- 18.6.5. Designation of CONTRACTOR as “nonresponsible,” and disqualification from bidding on future public works projects advertised by COUNTY.

19. PREVAILING WAGE.

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

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

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

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

19.3.2. CONTRACTOR and its subcontractors acknowledge that they shall not be listed on any bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the DIR pursuant to Labor Code section 1725.5. The requirements of this section shall apply unless one of the limited exceptions provided under Labor Code Section 1771.1(a) applies.

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

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

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

19.4. Cognizance of Violations by County.

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

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

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

- (a) COUNTY previously affirmatively represented to CONTRACTOR in 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

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(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/Public-Works/PublicWorksEnforcement.html>.

19.5.3. CONTRACTOR shall be liable for penalties pursuant to this section when a subcontractor on the Project fails to pay its workers the general prevailing rate of per diem wages and any of the following conditions are met:

(a) CONTRACTOR had knowledge of that failure of the subcontractor to pay

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the specified prevailing rate of wages to those workers; or

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

19.6. Work Day and Work Week Requirements. CONTRACTOR agrees to comply with §§1810 through 1815 of the California Labor Code and, when applicable, sections 103 and 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. §§3700 et seq., as supplemented by the Department of Labor regulations, which provide that CONTRACTOR’s workers and its subcontractor’s workers may not be required or permitted to work more than eight (8) hours in any one (1) calendar day and forty (40)

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

9 **19.7. Apprenticeship Requirements.**

10 **19.7.1.** CONTRACTOR agrees to comply with §§1777.5, 1777.6 and 1777.7 of the
11 California Labor Code relating to the employment of apprentices and to provide
12 COUNTY with copies of any contract award information and verified statements
13 of the journeyman and apprentice hours performed pursuant to this Agreement as
14 required by §1777.5(e). The responsibility for compliance with these provisions
15 is fixed with CONTRACTOR for all apprenticeable occupations, where
16 journeymen in the craft are employed on the public work, in a ratio of not less
17 than one (1) apprentice for each five (5) journeymen (unless an exemption is
18 granted in accordance with §1777.5) and CONTRACTOR and its subcontractors
19 shall not discriminate among otherwise qualified employees as indentured
20 apprentices on any public work solely on the ground of race, religious creed, color,
21 national origin, ancestry, sex, or age, except as provided in California Labor Code
22 §3077. Only apprentices, as defined in California Labor Code §3077, who are in
23 training under apprenticeship standards and who have signed written apprentice
24 agreements will be employed on public works in apprenticeable occupations.
25 This section shall not be enforced if the not-to-exceed amount of this Agreement
26 set forth and/or incorporated in the “COMPENSATION” Section is less than
27 thirty thousand dollars (\$30,000).

28 **19.7.2.** If the Project falls within the jurisdiction of California Labor Code §1777.5,

1 COUNTY shall, within five (5) days of the award, send a copy of the award to the
2 Division of Apprenticeship Standards. In addition, COUNTY shall notify the
3 Division of Apprenticeship Standards of a finding of any discrepancy regarding
4 the ratio of apprentices to journeymen within five (5) days of the finding.

5 **19.8. Labor Standards Compliance Requirements.**

6 **19.8.1.** It is CONTRACTOR's responsibility to provide all labor compliance
7 documentation from its subcontractors completely and accurately in a timely
8 manner. CONTRACTOR is responsible to review promptly and then forward on
9 all required documentation to COUNTY per the time schedules in the Labor
10 Compliance Handout. Included with the Labor Compliance Handout, COUNTY
11 will provide training, documentation requirements, forms, etc., at the
12 preconstruction conference or at a time designated by COUNTY.

13 **19.8.2.** In the event, during the review process of labor compliance documentation from
14 COUNTY's labor compliance monitor, inaccurate, missing or incomplete
15 information was provided, the labor compliance monitor will request from
16 CONTRACTOR the items, revisions and documentation needed. The cost of this
17 additional labor compliance enforcement shall be borne by CONTRACTOR.

18 **20. INELIGIBILITY.**

19 **20.1.** CONTRACTOR represents and warrants that it and its subcontractors are not ineligible
20 to work for COUNTY due to violations of Labor Code §§1777.1 and 1777.7.

21 **20.2.** If CONTRACTOR is deemed ineligible to perform work on public works projects
22 pursuant to Labor Code Sections 1777.1 or 1777.7, then CONTRACTOR shall be
23 prohibited from bidding on, being awarded an agreement for, or performing work as a
24 subcontractor on this Project, or any other public works project within the state of
25 California.

26 **21. SIGNAGE REQUIREMENTS.**

27 **21.1. Project Identity Signage.** CONTRACTOR is required to provide and install the required
28 project identity signage as detailed in the Plans and Specifications, in the size and at the

1 location indicated by the Director of Public Works or his/her designee, and to maintain
2 the signage in good condition for the duration of the Project. The signage may not be
3 removed until the Notice of Completion is recorded or by written direction of the Director
4 of Public Works or his/her designee.

5 **21.2.** Required Employee Signage and Posters. CONTRACTOR is required to provide and
6 install the Federal and State required employee posters and the required material
7 pertaining to the required labor standards provisions are posted (including, but not limited
8 to, WH-1321, OSHA 3165 and OFCCP-English, EFCCP-Spanish) at the worksite in a
9 prominent and accessible place.

10 **21.3.** Section 3 Compliant Signage. If required by COUNTY, CONTRACTOR is directed to
11 provide and install the "Offer for Employment" signage as detailed in the Plans and
12 Specifications in the size and at the location indicated by the Director of Public Works or
13 his/her designee and to maintain the signage in good condition for the duration of the
14 Project. The signage may not be removed until the Notice of Completion is recorded or
15 by written direction of the Director of Public Works or his/her designee.

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

17 **22.1.** CONTRACTOR agrees that it presently has no interest and shall not acquire any interest,
18 direct or indirect, which could conflict in any manner or degree with the performance of
19 services required to be performed under this Agreement. CONTRACTOR further agrees
20 that in the performance of this Agreement, no person having any such interest shall be
21 employed.

22 **22.2.** CONTRACTOR agrees to designate such person or persons who have responsibility for
23 carrying out the services under this Agreement and that such person or persons as may be
24 designated shall take any and all actions necessary to comply with COUNTY's Conflict
25 of Interest Code adopted pursuant to California Government Code §81000 to the extent
26 required thereunder.

27 **22.3.** If it is found, after notice and hearing by COUNTY, that gratuities (in the form of
28 entertainment, gifts, or otherwise) were offered or given by CONTRACTOR, or any

1 agent or representative of CONTRACTOR, to any officer, employee or agent of
2 COUNTY with a view toward securing a contract or securing favorable treatment with
3 respect to the awarding or amending or the making of any determinations with respect to
4 the performance of this Agreement, COUNTY may, by written notice to
5 CONTRACTOR, terminate the right of CONTRACTOR to proceed under this
6 Agreement and/or may pursue such other rights and remedies provided by law or under
7 this Agreement.

8 **22.4.** In the event this Agreement is terminated as provided herein, COUNTY shall be entitled
9 to:

10 **22.4.1.** Pursue the same remedies against CONTRACTOR as it could pursue in the event
11 of a breach of the Agreement by CONTRACTOR; and

12 **22.4.2.** As a penalty in addition to any other damages to which it may be entitled by law,
13 to exemplary damages in an amount (as determined by COUNTY) which shall be
14 not less than three (3) nor more than ten (10) times the costs incurred by
15 CONTRACTOR in providing any such gratuities to any such officer, employee
16 or agent.

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

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

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

24 When applicable, CONTRACTOR agrees to comply with the Copeland Act
25 (*18 USC §874* and *40 USC §276c; 29 C.F.R. Part 3*) which precludes CONTRACTOR and its
26 subcontractors from in any way inducing an employee to give up any part of the compensation to which
27 he or she is entitled under his or her contract of employment. CONTRACTOR and its subcontractors
28 shall submit a weekly statement of the wages paid to each employee performing on covered work during

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

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

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

13 **26. CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER**
14 **RESPONSIBILITY MATTERS.**

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

18 **27. FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT**
19 **SPECIFICATIONS.**

20 When applicable, CONTRACTOR agrees to incorporate the notice set forth in paragraph (d) of
21 41 C.F.R. 60-4.2 relating to the "Equal Opportunity Clause" and the "Standard Federal Equal
22 Employment Specifications." The responsibility for compliance with this provision is fixed with
23 CONTRACTOR.

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

25 When applicable, CONTRACTOR agrees to comply with all applicable standards, orders or
26 regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.), the Federal Water Pollution
27 Control Act as amended (33 U.S.C. 1251 et seq.), Presidential Executive Order 11738 and
28 Environmental Protection Agency regulations set forth at 40 C.F.R. Part 15. CONTRACTOR

1 understands and agrees that violations shall be reported to the Federal awarding agency and the Regional
2 Office of the Environmental Protection Agency. The responsibility for compliance with these provisions
3 is fixed with CONTRACTOR.

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

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

13 **30. FEDERAL EMPLOYMENT ELIGIBILITY VERIFICATION.**

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

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

19 **31.1.** During the performance of this Agreement, CONTRACTOR assures that no otherwise
20 qualified person shall be excluded from participation or employment, denied program
21 benefits or be subjected to discrimination based on race, color, national origin, gender,
22 age or handicap, under any program or activity funded by this Agreement, as required by
23 Title VI of the Civil Rights Act of 1964, Title I of the Housing and Community
24 Development Act of 1974, as amended, and the Age Discrimination Act of 1975, and all
25 implementing regulations. The responsibility for compliance with these provisions is
26 fixed with CONTRACTOR.

27 **31.2.** CONTRACTOR and its subcontractors shall not discriminate on the basis of race, color,
28 national origin, or sex in the performance of this Agreement. CONTRACTOR shall carry

1 out the applicable requirements of 49 C.F.R. Chapter 26 in the award and administration
2 of Department of Transportation assisted contracts. Failure by CONTRACTOR to carry
3 out these requirements is a material breach of this Agreement, which may result in the
4 termination of this Agreement, or such other remedy as COUNTY deems appropriate.
5 CONTRACTOR shall include the nondiscrimination and compliance provisions of this
6 Paragraph in all subcontracts to perform Work under this Agreement.

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

8 **32.1.** CONTRACTOR hereby agrees that it will incorporate or cause to be incorporated into
9 any contract for construction work, or modification thereof, as defined in the regulations
10 of the Secretary of Labor at 41 C.F.R. Chapter 60, which is paid for in whole or in part
11 with funds obtained from the Federal Government or borrowed on the credit of the
12 Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or
13 undertaken pursuant to any Federal program involving such grant, contract, loan,
14 insurance, or guarantee, the following equal opportunity clause. For the purposes of this
15 Subsection, the term “contractor” shall refer to CONTRACTOR, and the term “contract”
16 shall refer to this Agreement:

17 *“During the performance of this contract, the Contractor agrees as follows:*

18 (1) *The contractor will not discriminate against any employee or applicant for*
19 *employment because of race, color, religion, sex, or national origin. The*
20 *contractor will take affirmative action to ensure that applicants are*
21 *employed, and that employees are treated during employment, without*
22 *regard to their race, color, religion, sex, or national origin. Such action*
23 *shall include, but not be limited to the following: Employment, upgrading,*
24 *demotion, or transfer, recruitment or recruitment advertising; layoff or*
25 *termination; rates of pay or other forms of compensation; and selection for*
26 *training, including apprenticeship. The contractor agrees to post in*
27 *conspicuous places, available to employees and applicants for employment,*
28 *notices to be provided by the contracting officer setting forth the provisions*

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of this nondiscrimination clause.

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

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

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

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

(6) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September

1 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as
2 otherwise provided by law.

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

15 **32.2.** CONTRACTOR further agrees that it will be bound by the above equal opportunity
16 clause with respect to its own employment practices when it participates in federally-
17 assisted construction work; provided that if CONTRACTOR so participating is a State or
18 local government, the above equal opportunity clause is not applicable to any agency,
19 instrumentality, or subdivision of such government which does not participate in work on
20 or under the Agreement.

21 **32.3.** CONTRACTOR agrees that it will assist and cooperate actively with the administering
22 agency and the Secretary of Labor in obtaining the compliance of Contractors and
23 subcontractors with the equal opportunity clause and the rules, regulations, and relevant
24 orders of the Secretary of Labor, that it will furnish the Department and HUD and the
25 Secretary of Labor such information as they may require for the supervision of such
26 compliance, and that it will otherwise assist the administering agency in the discharge of
27 the agency’s primary responsibility for securing compliance.

28 **32.4.** CONTRACTOR further agrees that it will refrain from entering into any contract or

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

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

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

19 *“In entering into a public works contract or a subcontract to supply goods, services, or*
20 *materials pursuant to a public works contract, the contractor or subcontractor offers and*
21 *agrees to assign to the awarding body all rights, title, and interest in and to all causes of*
22 *action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the*
23 *Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the*
24 *Business and Professions Code), arising from purchases of goods, services, or materials*
25 *pursuant to the public works contract or the subcontract. This assignment shall be made*
26 *and become effective at the time the awarding body tenders final payment to the contractor,*
27 *without further acknowledgment by the parties.”*

28 **34. NON-COLLUSION.**

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

3 **35. NOTICES AND REPORTS.**

4 **35.1.** All notices and reports under this Agreement shall be in writing and may be given by
5 personal delivery or by mailing by certified mail, addressed as follows:

6	<u>COUNTY</u>	<u>CONTRACTOR</u>
7	Imperial County Department of Public Works	«Consultant_Business_Name»
8	Attention: Director	«Consultant_Street_Address»
9	155 South Eleventh Street	«Consultant_City_State»
10	El Centro, CA 92243	

11 with copies to:

12 Imperial County Executive Office
13 Attention: County Executive Officer
14 940 West Main Street, Suite 208
15 El Centro, CA 92243

16 and:

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

22 **35.2.** Notices and reports under this Agreement may be given by personal delivery or by
23 mailing by certified mail at such other address as either Party may designate in a notice
24 to the other Party given in such manner. Any notice given by mail shall be considered
25 given when deposited in the United States Mail, postage prepaid, addressed as provided
26 herein.

27 **36. ENTIRE AGREEMENT.**

28 This Agreement contains the entire agreement between COUNTY and CONTRACTOR relating
to the transactions contemplated hereby and supersedes all prior or contemporaneous agreements,
understandings, provisions, negotiations, representations, or statements, either written or verbal.

37. ASSIGNMENT.

Neither this Agreement nor any duties or obligations hereunder shall be assignable by

1 CONTRACTOR without the prior written consent of COUNTY.

2 **38. MODIFICATION.**

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

6 **39. CAPTIONS.**

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

9 **40. PARTIAL INVALIDITY.**

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

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

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

22 **42. WAIVER.**

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

26 **43. CHOICE OF LAW.**

27 The laws of the State of California shall govern this Agreement. This Agreement is made and
28 entered into in Imperial County, California. Any action brought by either Party with respect to this

1 Agreement shall be brought in a court of competent jurisdiction within said County.

2 **44. AUTHORITY.**

3 **44.1.** Each individual executing this Agreement on behalf of CONTRACTOR represents and
4 warrants that:

5 **44.1.1.** He/She is duly authorized to execute and deliver this Agreement on behalf of
6 CONTRACTOR;

7 **44.1.2.** Such execution and delivery is in accordance with the terms of the Articles of
8 Incorporation or Partnership, any by-laws or Resolutions of CONTRACTOR and;

9 **44.1.3.** This Agreement is binding upon CONTRACTOR in accordance with its terms.

10 **44.2.** CONTRACTOR shall deliver to COUNTY evidence acceptable to COUNTY of the
11 foregoing within thirty days of execution of this Agreement.

12 **45. COUNTERPARTS.**

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

17 **46. TIMING.**

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

19 **47. REVIEW OF AGREEMENT TERMS.**

20 **47.1.** Each Party has had the opportunity to receive independent legal advice from its attorneys
21 with respect to the advisability of making the representations, warranties, covenants and
22 agreements provided for herein, and with respect to the advisability of executing this
23 Agreement.

24 **47.2.** Each Party represents and warrants to and covenants with the other Party that:

25 **47.2.1.** This Agreement in its reduction to final written form is a result of extensive good
26 faith negotiations between the Parties and/or their respective legal counsel; and

27 **47.2.2.** The Parties and/or their legal counsel have carefully reviewed and examined this
28 Agreement for execution by said Parties.

1 **47.3.** Any statute or rule of construction that ambiguities are to be resolved against the drafting
2 party shall not be employed in the interpretation of this Agreement.

3 **48. APPENDIX E OF THE TITLE VI ASSURANCES.**

4 During the performance of this contract, the CONTRACTOR, for itself, its assignees, and
5 successors in interest agrees to comply with the following nondiscrimination statutes and
6 authorities; including but not limited to:

7 48.1. Pertinent Nondiscrimination Authorities:

- 8 (a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq, 78 stat. 252),
9 (prohibits discrimination on the basis of race, color, national origin); and 49 CFR
10 Part 21.
- 11 (b) The Uniform Relocation Assistance and Real Property Acquisition Policies Act
12 of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or
13 whose property has been acquired because of Federal or Federal-Aid programs
14 and projects);
- 15 (c) Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits
16 discrimination on the basis of sex);
- 17 (d) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as
18 amended, (prohibits discrimination on the basis of disability); and 49 CFR Part
19 27;
- 20 (e) The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.),
21 (prohibits discrimination on the basis of age);
- 22 (f) Airport and Airway Improvement Act of 1982, 949 U.S.C. § 4 71, Section 4
23 7123), as amended, (prohibits discrimination based on race, creed, color, national
24 origin, or sex);
- 25 (g) The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope,
26 coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age
27 Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by
28 expanding the definition of the terms “programs or activities” to include all the

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programs or activities of the Federal-aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not);

- (h) Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- (i) The Federal Aviation Administration’s Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- (j) Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- (k) Executive Order 13166, Improving Access to Services for persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- (l) Title IX of the Education Amendment of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

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

County of Imperial

<<Business Entity Name>>

By: _____
Ryan E. Kelley, Chairman
Imperial County Board of Supervisors

By: _____
«Consultant_Name_for_Signature»

ATTEST:

By: _____
Blanca Acosta,
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

Eric R. Havens,
County Counsel

By: _____
Mistelle Abdelmagied,
Assistant County Counsel

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:

**MAGGIO ROAD AND ROOD ROAD DRAINAGE CONNECTION
STORM DRAIN PIPELINE IMPROVEMENTS
County of Imperial Project No. 7004GTW**

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:

**MAGGIO ROAD AND ROOD ROAD DRAINAGE CONNECTION
STORM DRAIN PIPELINE IMPROVEMENTS
County of Imperial Project No. 7004GTW**

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)

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)



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)

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)

ENCROACHMENT PERMITS

Encroachments permits may be required by Caltrans, and by Imperial Irrigation District for encroaching into their respective jurisdictions for work, including temporary traffic control.

All permit fees required by Caltrans, 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, 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's Holtville Division office. The Contractor may obtain construction water from the Gateway of the Americas CSA as an alternative to IID. 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, whether construction water is obtained via permit, from IID or Gateway of the Americas CSA.