

VOLUME 3 – GENERAL AND CONTRACT REQUIREMENTS (FORMAL BID)



9012 - Nut Tree Airport – Elevator Code Upgrade Project 301 County Airport Road, Vacaville, CA 95866

BID SET (03/23/23)

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PREPARED BY:

GENERAL SERVICES DEPARTMENT
Capital Projects Management Division
675 Texas Street, Suite 2500, Fairfield, California



(Informal Bid)

SECTION 00 52 00 – AGREEMENT BETWEEN OWNER AND CONTRACTOR

THIS AGREEMENT is made as of the _____ day of _____, 2023 between the COUNTY OF SOLANO, a political subdivision of the State of California, (referred to as 'Owner') and CONTRACTOR NAME. (referred to as "Contractor") for the following Project:

The Project: **Nut Tree Airport - Elevator Code Upgrade Project**

Architect/Engineer: (N/A)

The Owner and the Contractor agree as set forth below.

ARTICLE 1 **THE CONTRACT DOCUMENTS**

The Contract documents consist of this Agreement, the General Conditions and those documents enumerated in Sub-paragraph 1.1.1 of the General Conditions, which documents are incorporated into and made a part of this Agreement

ARTICLE 2 **THE WORK**

The Contractor shall perform all the Work required by the Contract Documents for **Nut Tree Airport - Elevator Code Upgrade Project, at 301 County Airport Road, Vacaville, CA 95866.**

ARTICLE 3 **TIME OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**

The Work to be performed under this Contract shall commence no later than five (5) calendar days after the Notice to Proceed is issued to the Contractor and shall be carried out and completed according to the schedule set forth in Sections 00 11 00 – Notice to Bidders and 00 73 00 – Supplementary Conditions.

The Contractor agrees that the Work will be substantially completed in **120** calendar days from the Notice to Proceed. The Contractor shall achieve Final Completion of the project within thirty (30) calendar days of Substantial Completion. The Contractor agrees that the County will suffer economic damages, which may be difficult to quantify, in the event that the Work is not completed within this time period and therefore, Contractor agrees to pay the County liquidated damages in the amount outlined in Section 00 73 00 – Supplementary Conditions, Article 1.4, Liquidated Damages for each and every calendar day of delay beyond Final Completion.

ARTICLE 4 **CONTRACT SUM**

The County shall pay the Contractor for the performance of the Work, subject to additions and deductions by Change Order or as otherwise provided in the Contract Documents, a total Contract Sum of \$_____.



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**ARTICLE 5
PROGRESS PAYMENTS**

Based upon Applications for Payment submitted to the Project Manager by the Contractor and Project Certificates for Payment issued by the Project Manager/Architect, the County shall make progress payments on account of the Contract Sum to the Contractor as provided in the Contract Documents as follows:

Progress Payments: The Contractor shall on or before the first day of each month, make an estimate of the work performed during the preceding month and submit same to the Project Manager for checking and approval. On or about the 15th day of the month following the month in which the work was performed, the County shall pay to the Contractor ninety-five (95%) percent of the value of said work in place, as checked and approved by the Project Manager. The balance of five (5%) percent of the estimate shall be retained by the County until the time of final acceptance of said work.

The remaining retention would be held until 35 days after the Notice of Completion is filed with the Solano County Recorder's Office and completed according to Section 00 72 00 – General Conditions, Article 7.

**ARTICLE 6
FINAL PAYMENT**

Final payment, constituting the entire unpaid balance of the Contract Sum, shall be paid by the County to the Contractor when the Work has been completed, the Contract fully performed, the Architect has issued a Project Certificate for Payment which approves the final payment due the Contractor, Board of Supervisors of Solano County has formally accepted the project as complete by Resolution and Notice of Completion filed by the County Recorder's Office.

**ARTICLE 7
MISCELLANEOUS PROVISIONS**

7.1 **Terms.** Terms used in this Agreement, which are defined in the Section 00 72 00 – General Conditions of the Contract for Construction, shall have the meanings designated in those Conditions.

7.2 **Notices.** Notices shall be addressed as follow:

OWNER:
COUNTY OF SOLANO
Bill Emlen, County Administrator
675 Texas Street, Suite 2500
Fairfield, CA 94533

CONTRACTOR:
(CONTRACTOR)
(Contact name)
(Address)



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7.3 **Prevailing Wages.** The Contractor agrees that State Prevailing Wages apply to this Project and that the Contractor will pay the rates for each trade or craft and shall require the subcontractors on the project to pay the rates for each trade and craft. The Contractor agrees to repay the County any and all amounts paid to any subcontractor in violation of Public Contract Code Section 6109. Refer to Section 00 72 00 – General Conditions, Article 15.9 for more information.

7.4 **Execution of Contract in Counterparts.** This Contract may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument, it being understood that all parties need not sign the same counterpart. In the event that any signature is delivered by facsimile or electronic transmission (e.g., by e-mail delivery of a “.pdf” format data file), such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or electronic signature page were an original signature.

**ARTICLE 8
EXECUTION OF AGREEMENT**

The parties have executed this Agreement as of the day and year first above written.

COUNTY:

CONTRACTOR:

By: _____
Bill Emlen, County Administrator

By: _____
Name, Contractor

APPROVED AS TO FORM:

County Counsel of Solano County, California

By: _____

NOTE: If the Contractor is a corporation, attach to this Contract a certified copy of the by-laws, resolutions, or excerpts of a meeting of the Board of Directors of the Corporation authorizing the person executing this Agreement to do so for the Corporation

END OF SECTION 00 52 00



(Informal Bid)

SECTION 00 61 13 - STATUTORY PERFORMANCE BOND

STATUTORY PERFORMANCE BOND PURSUANT TO
California Public Contract Code Section 20129
(Penalty of this bond must be 100% of the Contract Amount)

KNOW ALL MEN BY THESE PRESENTS:

That, _____ (Hereinafter called the Principal), as Principal and _____, a corporation organized and existing under the laws of the State of _____, with its principal office in the City of _____, (hereinafter called the Surety), as Surety, are held and firmly bound unto **SOLANO COUNTY**, (hereinafter called the obligee) in the amount of _____ Dollars (\$ _____), for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Agreement with the Obligee, dated the _____ day of _____, 2023, to the **Nut Tree Airport - Elevator Code Upgrade Project**, at 301 County Airport Road, Vacaville, CA 95866, which Agreement is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THE OBLIGATION IS SUCH, that if said Principal shall faithfully perform and fulfill all the undertakings, covenants, terms, and conditions of said Agreement during the original term of the Agreement and any extension thereof, with or without notice to the Surety, and during the life of any guarantee required under the contract, and shall also perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized extensions or modifications of said contract that may hereafter be made, notice of said extensions or modifications to the Surety being hereby waived; then the above obligation shall be void. Otherwise, said obligation shall remain in full force and effect.

That this bond is executed pursuant to the provisions of California Public Contract Code, section 20129 and all liabilities on this bond shall be determined in accordance with the provisions of Part 2, Title 14, Chapter 2 of California Code of Civil Procedure, which is incorporated in full herein. The prevailing party in a suit on this bond shall recover as a part of his judgment such reasonable attorney's fees as may be fixed by a judge any court of competent jurisdiction.

Witness our hands this _____ day of _____, 2023.

Principal Seal

By

Surety Seal

By

Agency of Record

END OF SECTION 00 61 13



(Informal Bid)

SECTION 00 61 14 - STATUTORY PAYMENT BOND

STATUTORY PAYMENT BOND PURSUANT TO
California Civil Code Sections 3247 through 3252
(Penalty of this bond must be 100% of the Contract amount)

KNOW ALL THESE MEN BY THESE PRESENTS:

That, _____(hereinafter called the Principal), as Principal, and _____, a corporation organized and existing under the laws of the State of _____, with its principal office in the City of _____(hereinafter called the Surety), as Surety, are held and firmly bound unto SOLANO COUNTY (hereinafter called the Obligee), in the amount of _____Dollars (\$_____) for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Obligee, dated the _____ day of _____, 2023, to the **Nut Tree Airport - Elevator Code Upgrade Project**, at 301 County Airport Road, Vacaville, CA 95866, which contract is hereby referred to and made a part hereof as fully and to the same extent as if copies at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall promptly pay all moneys due to all persons supplying labor or materials to him or his subcontractors in the prosecution of the work provided for in said contract, then this obligation shall be void, otherwise to remain in full force and effect;

PROVIDED, HOWEVER, that this bond having been required or the said Principal in order to comply with the provisions of California Civil Code, sections 3247 through 3252, all rights and remedies on this bond shall inure solely to such persons and shall be determined in accordance with the provisions, conditions and limitations of said Statutory Provisions to the same extent as if they were copied at length herein.

The prevailing party in a suit on this bond shall recover as a part of his judgment such reasonable attorney's fees as may be fixed by a judge of the Court.

Witness our hands this _____ day of _____, 2023.

Principal Seal

By

Surety Seal

END OF SECTION 00 61 14



(Informal Bid)

SECTION 00 72 00 - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION

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(Informal Bid)

ARTICLE 1 CONTRACT DOCUMENTS

1.1 DEFINITIONS

1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents consist of the Owner-Contractor Agreement, the Conditions of the Contract (General and other Conditions), the Drawings, the Specifications, and all Addenda issued prior to and all Modifications issued after execution of the Agreement. A Modification is (1) a written amendment to the Agreement signed by both parties; (2) a Change Order; (3) a written interpretation issued by the Project Manager pursuant to Sub-paragraph 2.2.7, 2.2.8 and 2.2.9; or (4) a written order for a minor change in the Work issued by the Project Manager pursuant to Paragraph 12.4. The Contract Documents shall also include the Notice to Bidders, Instructions to Bidders, accepted Bid Form, the Payment Bond, Performance Bond, Warranty Bond, Insurance Certificates and Notice to Proceed.

1.1.2 THE CONTRACT

The Contract Documents form the Contract for Construction. This Contract represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification as defined in Subparagraph 1.1.1. The Contract Documents shall not be construed to create any contractual relationship of any kind between the Project Manager and the Contractor, but the Project Manager shall be entitled to performance of the obligations of the Contractor intended for their benefit and to enforcement thereof. Nothing contained in the Contract Documents shall create any contractual relationship between the County, the Project Manager and any Subcontractor or Sub-subcontractor.

1.1.3 THE WORK

The Work comprises the completed construction required of the Contractor by the Contract Documents, and includes all labor, materials, equipment and services necessary to produce such construction, and all materials, other permits (see article 4.7.1) and equipment incorporated or to be incorporated in such construction.

1.1.4 THE PROJECT

The Project, as defined in the Owner-Contractor Agreement, is the total construction of which the Work performed under the Contract Documents is a part.

1.2 EXECUTION, CORRELATION AND INTENT

1.2.1 The Contract Documents shall be signed in not less than three (3) original copies by the County and the Contractor.

1.2.2 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with the local conditions under which the Work is to be performed, and has correlated personal observations with the requirements of the Contract Documents.



(Informal Bid)

- 1.2.3 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work. The Contract Documents are complementary, and what is required by anyone shall be as binding as if required by all. Work not covered in the Contract Documents will not be required unless it is consistent therewith and is reasonably inferable as being necessary to produce the intended results. Words and abbreviations that have well-known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings.
 - 1.2.4 If the Contractor observes any errors, discrepancies or omissions in the Contract Documents, he shall promptly notify the Project Manager requesting clarification. If the Contractor proceeds with work affected by such errors, discrepancies or omissions, without having received such clarification, he does so at his own risk. Any adjustments involving such circumstances made by the Contractor, prior to approval by the Project Manager, shall be at the Contractor's risk and the settlement of any complications or disputes arising shall be at the Contractor's sole expense and Contractor shall indemnify, hold harmless and defend County, and Project Manager from any liability or loss with respect to said adjustments.
 - 1.2.5 Subject to Article 15.10.1, in cases of discrepancy concerning dimension, quantity and location, the Drawings shall take precedence over the Specifications. Explanatory notes on the Drawings shall take precedence over conflicting drawn indications. Large Scale details shall take precedence over smaller scale details and figured dimensions shall take precedence over scaled measurement. Where figures are not shown, scale measurements may be followed but shall in all cases be verified by measuring actual conditions of Work already in place. In cases of discrepancy concerning quality and application of materials and non-technical requirements over materials, the specifications shall take precedence over Drawings. In the case of discrepancy between the General Conditions and the Division 1 - General Requirements, the Division 1 - General Requirements shall take precedence.
 - 1.2.6 All work and material of the respective kinds specified or indicated shall be new. Should any workmanship or materials be required which are not directly or indirectly called for in the Specifications and/or shown on the Drawings but which are necessary for proper fulfillment of the obvious intent thereof, said workmanship or materials shall be the same for similar parts that are detailed, indicated or specified, and the Contractor shall understand the same to be implied and provide for it in his tender as if it were particularly described or delineated.
- 1.3 OWNERSHIP AND USE OF DOCUMENTS
- 1.3.1 All Drawings, Specifications and copies thereof furnished shall remain the property of the County. With the exception of one contract set for each party to the Contract, such documents are to be returned by Contractor or suitably accounted for to the County on request at the completion of the work. Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect/Engineer's common law copyright or other reserved rights. The County's use of the documents will not increase the Architect/Engineer's design liability beyond the Project and the site for which the design was originally intended.



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Contractor is entitled to make copies of drawings, specifications and other Contract Documents in connection with the Project but shall not distribute any copies of plans and details to other parties for use other than related to this Project. Architect/Engineer retains all common law copyrights for documents prepared by the Architect/Engineer.

ARTICLE 2 ADMINISTRATION OF THE CONTRACT

2.1 THE COUNTY CAPITAL PROJECTS DIVISION MANAGER

2.1.1 The County Capital Projects Management (CPM) Division Manager represents Solano County for all purposes relevant for this Project.

2.2 THE PROJECT MANAGER

2.2.1 The "Project Manager" is the Capital Projects Management Division's staff. The Project Manager reports to the County's Department of General Services Capital Projects Division Manager. All communications from and to the Contractor will be channeled through the Project Manager. However, the Project Manager does not have the authority to bind the County in matters affecting adjustments to the time or cost of the project as defined in the Owner – Contractor Agreement.

2.2.2 The Project Manager will be the County's representatives during construction and warranty periods, and until final payment to all contractors is due. The Project Manager will advise and consult with the County. All instructions to the Contractor shall be forwarded through the Project Manager. The Project Manager will have authority to act on behalf of the County only to the extent provided in the Contract Documents, unless otherwise modified by written instrument in accordance with Subparagraph 2.2.16.

2.2.3 The Project Manager will determine in general whether the Work of the Contractor is being performed in accordance with the Contract Documents and will endeavor to guard the County against defects and deficiencies in the Work of the Contractor.

2.2.4 The Project Manager will be on site during construction to monitor the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. On the basis of on-site observations and communication with the Contractor, the Project Manager will keep the County informed of the progress of the Work and will endeavor to guard the County against defects and deficiencies in the Work of the Contractor.

2.2.5 The Project Manager shall at all times have access to the Work wherever it is in preparation and progress. The Contractor shall provide facilities for such access so that the Project Manager may perform their functions under the Contract Documents.

2.2.6 Based on the Project Manager's observations, and an evaluation of the Contractor's Application for Payment, the Project Manager will determine the amount owing to the Contractor and will issue to the County Certificates for Payment incorporating such amount, as provided in Paragraph 9.4.



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- 2.2.7 The Project Manager will render interpretations necessary for the proper execution or progress of the Work, with reasonable promptness and in accordance with agreed upon time limits.
- 2.2.8 Claims, disputes and other matters in question between the Contractor and the Project Manager relating to the execution or progress of the Work or the interpretation of the Contract Documents shall be referred to the CPM Division Manager of Solano County (or his/her designee).
- 2.2.9 All interpretations and decisions of the Project Manager shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in graphic form.
- 2.2.10 The Project Manager will have the authority to reject, and or recommend to the County the rejection of, Work that does not conform to the Contract Documents. Whenever, in the Project Manager's opinion, it is considered necessary or advisable for the implementation of the intent of the Contract Documents, the Project Manager will have authority to require special inspection or testing of the Work in accordance with Subparagraph 7.7.2 whether or not such Work be then fabricated, installed or completed.
- 2.2.11 The Project Manager will receive from the Contractor and review-required Shop Drawings, Product Data and Samples, and forward same to Architect and County for review and approval. Non-specified submittals, product data and samples may be reviewed or returned un-reviewed.
- 2.2.12 Following consultation with the County, the Project Manager will take appropriate action on Change Orders in accordance with Article 12 and will have authority to order minor changes in the Work as provided in Subparagraph 12.4.
- 2.2.13 The Project Manager will conduct inspections to determine the date of Substantial Completion and Final Completion, and will receive and forward to the County, for the County's review, written warranties and related documents required by the Contract and assembled by the Contractor. The Project Manager will issue a final Project Certificate for Payment upon compliance with the requirements of Paragraph 9.8. The Project Manager will monitor all warranties for a period of one year after final completion, unless otherwise specified as a longer term.
- 2.2.14 The duties, responsibilities and limitations of authority of the Project Manager, as the County's representatives during construction as set forth in the Contract Documents, will not be modified or extended without written consent of the County, the Contractor and the Project Manager, which consent shall not be unreasonably withheld. Failure of the Contractor to respond within ten days to a written request shall constitute consent by the Contractor.
- 2.2.15 In case of the termination of the employment of the Project Manager, the County shall appoint a Project Manager, whose status under the Contract Documents shall be that of the former Project Manager, respectively.

2.3 THE PROJECT ARCHITECT



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- 2.3.1 The "Project Architect" is the architect/engineer or firm engaged as an independent contractor by the County to design the Project, and all sub-consultants or joint ventures of the Project Architect, identified as such in the Owner-Contractor Agreement. The authority of the Project Architect to bind the County is limited to that authority specified in the Contract Documents and Agreement between County and Architect, no additional authority has been granted, nor shall be inferred. The Project Architect includes all architect, engineering, sub-consultants and other consultants or sub-contractors employed by the Project Architect or an entity lawfully practicing engineering.
 - 2.3.2 The Project Architect advises the Project Manager in all aspects of the construction phase of the Project, including the correct interpretation and application of the Contract Documents. However, the Project Manager is the County's representative on the Project, not the Project Architect. The Project Architect is not authorized independently to issue Addenda, Clarifications, Field Orders, Work Authorizations, or Change Orders, or in any other way to bind the County in discussions with the Contractor. The Project Architect reports to the Project Manager.
 - 2.3.2 The Project Architect shall at all times have access to the Work wherever it is in preparation and progress. The Contractor shall provide facilities for such access so that the Project Architect may perform their functions under the Contract Documents.
 - 2.3.3 The Contractor shall deliver all correspondence relating to the proper execution of the Work to the Project Manager, with a copy delivered to the Project Architect. The Project Manager reserves the right to consult with the Project Architect and County prior to responding to the Contractor's correspondence.
 - 2.3.5 When discussions between the Contractor and the Project Manager occur either on the site or elsewhere, but the Project Architect is not present, the Project Manager reserves the right to consult with the Project Architect and County prior to issuing his/her final decision or instruction.
 - 2.3.6 The Project Architect will review or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for conformance with the design concept of the Work and the information given in the Contract Documents. Such action shall generally be taken within ten (10) working days, however under certain circumstances such as very complex submittals or if large number of submittals are submitted at one time, such review may take longer. In such situations, the Contractor will be notified and given the opportunity to advise the Project Manager and Project Architect of priorities. The Project Architect's review of a specific item shall not indicate approval of an assembly of which the item is a component.
- 2.4 THE COUNTY INSPECTOR OF RECORD
- 2.4.1 The County's Inspector of Record observes the Work for compliance with the Contract Documents and reports the results of those inspections to the Project Manager and County. The County's Inspector of Record reports to the Project Manager.



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- 2.4.2 The County's Inspector of Record is the person or firms engaged by Solano County to perform contract compliance and building code inspections.
 - 2.4.3 The County's Inspector of Record is not authorized to issue addenda, clarifications, field orders, work authorizations, or change orders, or otherwise to bind the County in discussions with the Contractor.
 - 2.4.4 The Contractor nor his subcontractors shall not attempt to influence the County's Inspector of Record in the performance of their duties, nor request the County's Inspector of Record to exceed their authority.
- 2.5 ADDITIONAL PERSONNEL OR CHANGE IN PERSONNEL
- 2.5.1 The County reserves the right to assign additional persons to the positions set forth in Section 3.1, or change the personnel assigned to the positions so set forth.
 - 2.5.2 The Contractor shall be notified in writing by the County CPM Division Manager of any personnel changes.
 - 2.5.3 In all cases, the County CPM Division Manager reserves the right to obtain assistance from other County personnel, independent contractors or other consultants employed by the County.

ARTICLE 3 COUNTY

- 3.1 DEFINITION
- 3.1.1 The County is the person or entity identified as such in the Owner-Contractor Agreement. The term County means the County or the County's authorized representative for this project.
- 3.2 INFORMATION AND SERVICES REQUIRED OF THE COUNTY
- 3.2.1 Except as provided in Subparagraph 4.7.1, the County shall secure and pay for necessary approvals, easements, assessments and charges required for the construction, use or occupancy of permanent structures or for permanent changes in existing facilities.
 - 3.2.2 Information or services under the County's control shall be furnished by the County with reasonable promptness to avoid delay in the orderly progress of the Work and Contractor shall be entitled to rely on the accuracy and completeness of the information provided notwithstanding anything to the contrary in the Contract Documents.
 - 3.2.3 The Contractor will be furnished not more than **TWO (2)** copies of the Drawings and Specifications, free of charge. The Contractor, at Contractor's expense of reproduction, may obtain additional copies over this number.
 - 3.2.4 The County shall forward all instructions to the Contractor through the Project Manager.



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3.2.5 The foregoing is in addition to other duties and responsibilities of the County enumerated herein and especially those in respect to Work by County or by Separate Contractors, Payments and Completion, and Insurance in Articles 6, 9 and 11, respectively.

3.3 COUNTY'S RIGHT TO STOP THE WORK

3.3.1 If the Contractor fails to correct defective Work as required by Paragraph 13.2, or persistently fails to carry out the Work in accordance with the Contract Documents, the County, by a written order signed personally or by an agent specifically so empowered by the County in writing, may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the County to stop the Work shall not give rise to any duty on the part of the County to exercise this right for the benefit of any Contractor or any other person or entity, except to the extent required by Subparagraph 6.1.3.

3.4 COUNTY'S RIGHT TO CARRY OUT THE WORK

3.4.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails after written notice from the County to correct such default or neglect with diligence and promptness, the County may, after an additional written notice and without prejudice to any other remedy the County may have, make good such deficiencies. In such case an appropriate Change Order shall be issued deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies, including compensation for the additional services of the Project Manager, Architect/Engineer or other Professionals made necessary by such default, neglect or failure. Such action by the County and the amount charged to the Contractor are both subject to the prior approval of the Project Manager. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the County, or County may call performance or warranty bonds.

ARTICLE 4 **CONTRACTOR**

4.1 DEFINITION

4.1.1 The Contractor is the person or entity identified as such in the Owner-Contractor Agreement. The term Contractor means the Contractor or the Contractor's authorized representative.

4.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS

4.2.1 The Contractor shall carefully study the Contract Documents and shall at once report to the Project Manager any error, inconsistency or omission discovered. The Contractor shall not be liable to the County or the Project Manager for any damage resulting from any such errors, inconsistencies or omissions in the Contract Documents unless the Contractor recognized such error, inconsistencies or omissions and knowingly failed to report it to the Project Manager. The Contractor shall perform no portion of the Work at any time unless authorized by the Contract Documents or, where required, approved Shop Drawings, Product Data or Samples for such portion of the Work.



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- 4.2.2 Neither the County nor the Project Manager or Architect/Engineer assume any responsibility for an understanding or representation made by any of their agents or representation prior to the execution of the Agreement unless (1) such understanding or representations are expressly stated in the Agreement, and (2) the Agreement expressly provides that responsibility therefore is assumed by the County.
- 4.2.3 Failure by the Contractor to acquaint himself with all available information will not relieve him from responsibility for estimating properly the difficulty or cost of successfully performing the Work.
- 4.2.4 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies or omissions discovered shall be reported to the Project Manager within one (1) calendar day of discovery.
- 4.2.5 Before submitting any Request for Information (RFI), or other Contractor initiated request for information the Contractor shall determine that the information requested is not clearly provided in the Contract Documents.
- .1 RFI's shall be submitted to the Project Manager only from the Contractor, or County, and not from any subcontractor, supplier or other vendor, and shall be on a form approved by the Project Manager and County.
 - .2 The Contractor shall provide a revised and updated RFI Priority Schedule on a weekly basis. The RFI Priority Schedule shall rank RFI's in order of priority and include a brief statement of reason for priority. County initiated RFI's will not be listed on the contractor's RFI Priority Schedule. The County will provide the Project Manager a separate list of County initiated RFI's upon request of the Project Manager. The Project Manager will endeavor to respect the order of priorities as requested by the Contractor or County for the overall benefit of the Project. The RFI process is for information and clarification only and may not be utilized to obtain approval for changes in the work.
 - .3 Allow five (5) working days for a response after delivery to Project Manager. Request for Information shall include written and graphic solutions proposed by Contractor. Architect will determine if proposal is in accord with Contract Documents and design intent of Project. Contractor's failure to make reasonable effort to propose realistic solution may result in Request for Information returned with no action.
 - .4 Requests for Information shall be issued only for information not clearly defined in the contract documents. For those RFI's that are issued that request information that is clearly shown in the contract documents, the Architect shall be entitled to back charge the Contractor for the actual time spent responding to the RFI. The back charge shall be deducted from the Contractor's next payment application and those funds forwarded to the Architect as compensation.
- 4.2.6 The County shall not be responsible for the repair or replacement of existing known or reasonably discoverable utilities.



(Informal Bid)

4.3 SUPERVISION AND CONSTRUCTION PROCEDURES

4.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor and its subcontractors shall be solely responsible for all construction means, methods, techniques, sequences, procedures, or safety procedures at the project site; and shall coordinate all portions of the Work under the Contract.

4.3.2 The Contractor shall be responsible to the County for the acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and any other persons performing any of the Work under a contract with the Contractor.

4.3.3 The Contractor shall not be relieved from the Contractor's obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the Project Manager in the administration of the Contract, or by inspections, tests or approvals required or performed under Paragraph 7.7 by persons other than the Contractor.

4.4 LABOR AND MATERIALS

4.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

4.4.2 The Contractor shall at all times enforce strict discipline and good order among the Contractor's employees and shall not employ on the Work any unfit person or anyone not skilled in the task assigned them.

4.4.3 The Contractor shall deliver to the Project Manager, prior to final acceptance of the work as a whole, signed certificates from suppliers of materials and manufactured items stating that such items conform to the Contract Documents.

4.4.4 The Contractor, immediately upon Notice to Proceed (or where shop drawings, samples, etc., are required, immediately upon receipt of approval thereof) shall place orders for all materials, work fabrication, and/or equipment to be employed by Contractor for that portion of the work contracted. The Contractor shall keep all materials, work fabrications and/or equipment specified and shall advise the Project Manager promptly, in writing, of all orders placed and of such materials, work available in a timely manner for the purposes of the Contract.

4.4.5 Anyone employed by Contractor or its Subcontractors whose work is unsatisfactory to the County or the Project Manager or is considered by the County or Project Manager to be careless, incompetent, unskilled or otherwise unfit shall be dismissed from work under the Contract upon written request to the Contractor from the County or the Project Manager.

4.4.6 Material and equipment incorporated in the Work shall be new, unless otherwise specified; in a condition acceptable to the County and the Architect/Engineer; suitable for the use intended; in conformance with EPA codes and regulations and applicable air quality control district.



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4.4.7 No material or equipment shall be used for any purpose other than that for which it is designed or specified. No material shall contain asbestos. No materials or products shall contain formaldehyde in excess of the amount recommended by the State of California Department of Health Services (DOHS).

4.5 WARRANTY

4.5.1 The Contractor warrants to the County that all materials and equipment furnished under this Contract will be new unless otherwise specified, and that all Work will be of good quality, free from faults and defects and in conformance with the Contract Documents. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the Project Manager, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty is not limited by the provisions of Paragraph 13.2.

4.6 TAXES

4.6.1 The Contractor shall pay all sales, consumer, use and other similar taxes for the work or portions thereof provided by the Contractor which are legally enacted at the time bids are opened, whether or not yet effective, up to final completion of the project.

4.7 PERMITS, FEES, AND NOTICES

4.7.1 Unless otherwise provided in the Contract Documents, the County shall secure the building permit, and permanent utility connection fees. The Contractor shall secure and pay for temporary construction utilities, and all other permits and governmental fees, licenses and inspections necessary for the proper execution and completion of the Work which are customarily secured after execution of the Contract and which are legally required at the time bids are opened.

4.7.2 The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work.

4.7.3 It is not the responsibility of the Contractor to make certain that the Contract Documents are in accordance with applicable laws, statutes, building codes and regulations. If the Contractor observes that any of the Contract Documents are at variance in any respect, the Contractor shall promptly notify the Project Manager in writing, and any necessary changes shall be accomplished by appropriate modification.

4.7.4 If the Contractor performs any Work knowing it to be contrary to any laws, ordinances, rules and regulations, without notice to the Project Manager, the Contractor shall assume full responsibility therefore and shall bear all costs attributable as a result.

4.7.5 Any reference in the Specifications text to codes, standard specifications or manufacturer's instructions shall mean the latest printed edition of each in effect at the time the plans and specifications are approved by the County Building Department.



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4.8 ALLOWANCES

4.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by these allowances shall be supplied for such amounts and by such persons as the Project Manager may direct, but the Contractor will not be required to employ persons against whom the Contractor makes a reasonable objection.

4.8.2 Unless otherwise provided in the Contract Documents:

- .1 these allowances shall cover the cost to the Contractor, less any applicable trade discount, of the materials and equipment required by the allowance, delivered at the site, and all applicable taxes;
- .2 the Contractor's costs for unloading and handling on the site, labor, installation costs, overhead, profit and other expenses contemplated for the original allowance shall be included in the Contract Sum and not in the allowance;
- .3 whenever the cost is more or less than the allowance, the Contract Sum shall be adjusted accordingly by Change Order, the amount of which will recognize changes, if any, in handling costs on the site, labor, installation costs, overhead, profit and other expenses.

4.9 PROJECT MANAGER AND SUPERINTENDENT

4.9.1 The Contractor shall employ a competent project manager, superintendent and necessary assistants who shall be in attendance at the Project site at all times during the progress of the Work. The project manager and the superintendent shall represent the Contractor and all communications given to the project manager and superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be so confirmed upon written request in each case.

4.9.2 The Project Manager and Superintendent who begin the Project shall remain on the Project until the Project is completed, as long as the Contractor employs that person. The Project Manager and Superintendent shall not be replaced without the prior approval of the County.

4.10 CONTRACTOR'S CONSTRUCTION SCHEDULE

4.10.1 Within ten (10) calendar days after receipt of Notice to Proceed, the Contractor shall submit a Construction Schedule in CPM (Critical Path Method) form to the Project Manager for approval. The Construction Schedule shall be sufficiently detailed to accurately depict all the work required by the contract and include all features per paragraph 4.12 of Section 00 72 00 – General Conditions of the Contract for Construction. CPM Construction Schedule shall reflect shop drawings; submittals due and return dates, fabrication and delivery times, crew mix, and equipment loading data. The Contractor shall thereafter adhere to the Project Construction Schedule, as regularly updated, including any revisions therein made by the County during the course of construction. "Slack" or "float" time on the CPM Construction Schedule is not for the sole benefit of the County or Contractor and shall be apportioned according to the needs of the project and as accepted by the County.



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- 4.10.2 Within ten (10) calendar days after the Notice to Proceed, the Contractor shall provide a Submittal and Procurement Schedule indicating time periods for review of Shop Drawings, Data, Samples, and procurement of material and equipment required for the Work, per paragraph 4.12 of Section 00 72 00 – General Conditions of the Contract for Construction . All items that require approval by the Project Manager and/or are not readily available from stock and requiring more than 35 days' lead time shall be included in the Submittal and Procurement Schedule. Items listed in the Submittal and Procurement Schedule shall also be identified as activities on the CPM Construction Schedule.
- 4.10.3 The working day to calendar date correlation shall be based upon the Contractor's proposed work week with adequate allowance for legal holidays, days lost due to weather, and any special requirements of the project.
- 4.10.4 The Construction Schedule and Submittal and Procurement Schedule shall be prepared and maintained by the Contractor.
- 4.10.5 The County, Project Manager, Contractor and other Contractor(s) shall jointly review the progress of the work weekly. Should this review, in the opinion of the Project Manager, indicate that the work is behind the schedule established by currently approved Construction Schedule, the Contractor shall either 1) provide a plan to the Project Manager indicating the steps the Contractor intends to take in order to recover the time behind schedule and conform to the approved Construction Schedule and Submittal and Procurement Schedule; or 2) submit a revised Construction Schedule and Submittal and Procurement Schedule for completion of the work, remaining within the contract completion time, to the Project Manager for approval by the next weekly meeting.
- 4.10.6 Contractor to prepare daily construction reports to record: manpower of the general contractor and each onsite subcontractor, a summary of progress, high & low temperature, precipitation, contract days expended, CPM activities performed and percent complete for each activity, and other pertinent information. Prepare one report for each workday. Submit the report of the previous day no later than 8:00 am the following workday to the Project Manager and County. Failure to comply may result in progress payment withholdings.
- 4.10.7 The Contractor will schedule and coordinate the Work of all sub-contractors on the Project using the critical path method of scheduling. The Contractor will keep the Sub-contractors informed of the Project Construction Schedule to enable the Contractor to plan and perform the Work properly.
- 4.11 RECORDS, DOCUMENTS AND SAMPLES AT THE SITE
- 4.11.1 The Contractor shall maintain all records of required City, County or State inspections and shall promptly notify the Project Manager of the results of any inspection. Copies of all such records shall be provided to the County upon request.
- 4.11.2 The Contractor shall secure and maintain required certificates of inspection, testing or approval and shall promptly deliver them to the Project Manager.



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- 4.11.3 The Contractor shall maintain at the Project site, on a current basis, one record copy of all Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to record all changes made during construction, and approved Shop Drawings, Product Data and Samples. These shall be available to the Project Manager and the County and shall be delivered to the Project Manager for forwarding to the County upon completion of the Project. The Contractor shall advise the Project Manager on a current basis of all changes in the Work made during construction.
- 4.11.4 Prior to approval of the monthly payment application, Contractor shall review above referenced documents with the Construction Manager to assure compliance. Approval of payment application is contingent upon above referenced records being current.
- 4.11.5 If the Contractor requests and receives from the Architect electronic copies and/or specifications, Contractor shall provide Record As built in electronic form at the close of the Project, in the same format as was provided by the Architect to the Contractor.
- 4.12 SHOP DRAWINGS, PRODUCT DATA, SAMPLES, AND OTHER SUBMITTALS
- 4.12.1 No portion of the work requiring submission of a Shop Drawing, Product Data or Sample shall be commenced until the submittal has been reviewed by the Architect. All such portions of the Work shall be in accordance with reviewed submittals.
- 4.12.2 Submission of Shop Drawings and Samples to the Project Manager is required for only those items specifically mentioned in the Specification Sections. If Contractor submits Shop Drawings for items other than the above, the Project Manager will not be obligated to distribute or review them. Contractor shall be responsible for the procuring of Shop Drawings for his own use as he may require for the progress of the Work.
- 4.12.3 Submittal Schedule
- .1 Within ten (10) calendar days after the Notice to Proceed, the Contractor shall provide a Submittal and Procurement Schedule indicating time periods for review of Shop Drawings, Data, Samples, and procurement of material and equipment. All items that require approval by the Architect and /or Project Manager and/or are not readily available from stock and requiring more than 35 days' lead time shall be included in the Submittal and Procurement Schedule.
 - .2 Items listed in the Submittal and Procurement Schedule shall also be identified as activities on the CPM Construction Schedule.
 - .3 Submittal and Procurement Schedule shall be maintained by the Contractor.
 - .4 The working day to calendar date correlation shall be based upon the Contractor's proposed work week with adequate allowance for legal holidays, days lost due to weather, and any special requirements of the project.
 - .5 Submit in accordance with the sequence of procurement, fabrication and construction, and according to Submittal Schedule submitted to Project



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Manager. NOTE: Some submittals maybe required within the first ten (10) calendar days of the Notice to Proceed due to the sequence of Work. Contractor to review statutes and contract documents.

- .6 Schedule to reflect submittals far enough in advance of scheduled dates of installation to allow the time required for reviews, for securing necessary approvals, for possible revision and resubmittal, and for placing orders and securing delivery.
- .7 Allow sufficient review time so that installation will not be delayed as a result of the time required to process submittals, including time for re-submittals.
- .8 Coordinate submittal schedule with the list of subcontracts, schedule of values and the list of products as well as the Contractor's construction schedule.

4.12.4 Submittal Types

- .1 Site Logistics Plan: show temporary facilities, utility hookups, staging areas, and parking areas for construction personnel in areas designated by the County.
- .2 Construction Schedule
- .3 Product Data or Sample
- .4 Shop Drawings:
 - a. Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or any Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

4.12.5 The term "Shop Drawings" as used here also includes but is not limited to fabrication, erection, layout and setting drawings/literature.

- .1 Submittals shall be identified by specification section. Any re-submittals shall be numbered sequentially according to the original submittal section (do not assign a new number for a resubmittal).
- .2 Include: Project name and address; date of submission; whether it is an original or a re-submittal; subcontractor's or supplier's name and address; and name and telephone number of the individual to contact for additional information regarding the submittal.
- .3 Contractor's stamp with initials or signature (certifying to review of submittal, compliance with Contract Documents, and coordination with other impacted work, and verification of field measurements). The Architect/Engineer will return any submittal not bearing this stamp without being reviewed.
- .4 Provide space on label or beside title block to record Contractor's and Architect/Engineer's review markings and action taken.
- .5 For samples, include additional information such as: manufacturer and supplier; name, finish, and composition of material; and location where material is to be used.

4.12.6 Coordination of Submittals

- .1 Contractor to fully coordinate material prior to submittal for the Architect/Engineer's review. Determine and verify field dimensions and conditions, materials, catalog numbers, and similar data. Coordinate shop drawing submittals with previously issued Addenda and Information Bulletins. Coordinate with the various types of Work and public agencies



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involved. Secure necessary approvals from public agencies and others and signify by stamp, or other means, that approvals have been secured. Unless otherwise specifically permitted by the Engineer, make submittals in groups containing all associated items.

- .2 Completeness: Submittals shall be complete; partial submittals may be rejected as not complying with requirements of Contract documents and Contractor shall be liable for any resulting delays.
- .3 Make submittals in groups containing associate items to ensure that information is available for checking each item when received.
- .4 The Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the Architect's review of Shop Drawings, Product Data or Samples under Subparagraph 2.1.6, unless the Contractor has specifically informed the Project Manager in writing of such deviation at the time of submission and the Architect has given written approval to the specific deviation. The Contractor shall not be relieved from responsibility for errors or omissions in the Shop Drawings, Product Data or Samples by the Architect's approval of them.

4.12.7 Submittal Process

- .1 Package each submittal appropriately for transmittal and handling.
- .2 Project Manager / Architect's Review: Submittals are reviewed for general conformance with design concept and general compliance with information given in Contract Documents only. Review of separate item shall not indicate acceptance of assembly of which item is part. Review shall not relieve Contractor from responsibility for errors or deviations from requirements of Contract Documents.
- .3 Allow a minimum of 10 working days for processing by the Project Manager/Architect and his consultants, as applicable. Some submittals may require more processing time based upon consultant's input and the complexity of the submittal. If certain submittals are critical, they should be so identified at time of submission. If a specific submittal cannot be reviewed and returned within 10 working days, the Architect will develop with the Project Manager and Contractor a timely "turn-around" that will not impact the construction schedule.
- .4 The Project Manager/Architect or his consultants, as applicable, will review the Shop Drawings; mark the PDF drawings with required revisions; stamp the drawings and indicate "No Exceptions Noted," "Make Corrections Noted," "Revise and Resubmit," or "Rejected," and return the drawings. "Revise and Resubmit" or "Rejected" stamps shall not be construed by the Contractor as a valid reason for an extension of time.
- .5 Contractor shall review the returned drawings and take appropriate action as indicated.
 - a. If drawings are marked "Revise and Resubmit," make revisions and indicate them with a "cloud," stamp and date, and resubmit in the same manner and number as for the original submittal. Contractor may not proceed with work represented in submittal. Resubmit until "No Exceptions Noted," or "Make Corrections Noted" status is given.
 - i. The Project Manager/Architect or his consultants, or the County's consultants, as applicable, may review at their



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- discretion **up to one re-submittal** and take action, as appropriate, in the same manner as for the original submittal.
- ii. If more than one re-submittal is required, any associated costs as a result of additional reviews shall be an extra service of the Project Manager/Architect, or his consultants or the County's consultants, as applicable, and will be processed as a deductive Change Order in accordance with the GENERAL CONDITIONS and SUPPLEMENTARY CONDITIONS.
 - iii. Claims will not be considered for Contractor's additional time or expense associated with re-submittals.
- b. If drawings are marked "Rejected," make a new submittal and submit in the same manner and number as for the original submittal.
 - c. If drawings are marked "No Exceptions Noted" or "Make Corrections Noted", print and distribute copies for County and Inspector, as well as those required for Contractor and Subcontractors. Contractor may proceed with work represented in submittal. Project Manager/Architect's review is not conducted for the purpose of determining the accuracy or completeness of other details, such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment and systems, all of which remain the responsibility of the Contractor.
- .6 The Contractor shall direct specific attention, in writing or on resubmitted Shop drawings, Product Data, or Samples, to revisions other than those requested by the Architect on previous submittals.
 - .7 Final action is signified by the markings "No Exceptions Noted," or "Make Corrections Noted," on the returned drawings.
 - .8 Following final action by the Project Manager/Architect or his consultants, or the County's consultants, as applicable, the Contractor shall make copies and distribute as required for accomplishment and inspection of the indicated Work. Provide electronic PDF copies of approved shop drawings for the County's records.
- 4.12.8 Submittal Log: maintain accurate submittal log for duration of Contract. Indicate current status of all submittals at all times. Make submittal log available for the Project Manager's review upon request.
- 4.12.9 Manufacturer's Instructions: when specified in individual Sections, submit PDFs of manufacturers' printed instructions for delivery, storage, assembly, installation, start-up, adjusting, and finishing, in quantities specified for Product Data. Identify conflicts between manufacturers' instructions and Contract Documents.
- 4.12.10 Patterns And Color: Unless the exact pattern and color of a product are indicated in the Contract Documents, whenever a choice of pattern or color is available for a product, submit 2 hard copies (not PDF's) of accurate color charts and pattern charts to the Project Manager/Architect for his review and selection.
- 4.12.11 Certificates Of Compliance



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- .1 When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, the Architect shall be entitled to rely upon the accuracy and completeness of such calculations and certifications. The cost of such certifications shall be borne by the Contractor. County may elect to have an independent certification performed at its own expense. The County shall have final approving authority for performance-based items.
- .2 Submit certificates of compliance with the associated Shop Drawings, Product Data, Samples, and other submittals required for the product in PDF.
- .3 Each certification shall include the following: project name and location; contractor's name and address; quantity and date or dates of shipment or delivery to which certificate applies; and manufacturer's name
- .4 Indicate material or product conforms to or exceeds specified requirements. Submit supporting reference data, affidavits, and certifications as appropriate.
- .5 Certificates may be recent or previous test results on material or product but must be acceptable to Project Manager/Architect.
- .6 The Project Manager and Architect will retain the certificates of compliance; no review reply is intended.

4.13 USE OF SITE

4.13.1 The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits and the Contract Documents, and shall not unreasonably encumber the site with any materials or equipment. The Contractor shall be liable for any and all damage caused by it to County's premises. The Contractor shall hold and save the County, its agents, representatives, and consultant Project Manager and Project Engineer, free and harmless and defend them from liability of any nature or kind arising from any use, trespass, or damage to premises or third persons to the extent caused by its operations.

4.13.2 The Contractor shall coordinate all of the Contractor's operations with, and secure approval from, the Project Manager before using any portion of the site.

4.13.3 Contractor shall have use of a staging area at the Site to be designated when work is initiated. Contractor shall not interfere or encroach on adjacent County activities as well as its emergency exit-ways while work is ongoing. Contractor shall take all precautions necessary to preserve and maintain health and safety and to keep pedestrian and vehicular passageways clear at all times.

4.14 CUTTING AND PATCHING OF WORK

4.14.1 The Contractor shall be responsible for all cutting, fitting or patching that may be required to complete the Work or to make its several parts fit together properly.

4.14.2 The Contractor shall not damage or endanger any portion of the Work or the work of the County or any separate contractors by cutting, patching or otherwise altering any work, or by excavation. The Contractor shall not cut or otherwise alter the work of the County or any separate contractor except with the written consent of the County and of such separate contractor. The Contractor shall not unreasonably withhold from the County or any separate contractor consent to



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cutting or otherwise altering the Work.

- 4.14.3 Before cutting existing surfaces, examine surfaces to be cut and patched and conditions under which cutting and patching is to be performed. Take corrective action before proceeding, if unsafe or unsatisfactory conditions are encountered. Review areas of potential interference and conflict. Coordinate procedures and resolve potential conflicts before proceeding.
- 4.14.4 In all cases Contractor shall exercise extreme care in cutting operations and perform such operations under adequate supervision by competent mechanics skilled in the applicable trade. Openings shall be neatly cut and shall be kept as small as possible to avoid unnecessary damage. Careless and/or avoidable cutting damage, etc., will not be tolerated, and the Contractor will be held responsible for such avoidable or willful damage. Protect adjacent occupied spaces, roof membranes, and building envelope systems from damage during concrete cutting and coring.
- 4.14.5 All replacing, patching and repairing of all materials and surfaces cut or damaged in the execution of the Work shall be performed by experienced mechanics of the several trades involved. Such replacing, repairing or patching shall be done with the applicable materials, in such a manner that all surfaces so replaced, etc., will, upon completion of the Work, match the surrounding similar surfaces.
- 4.14.6 The Contractor is to provide notification to the County of impending work near all existing facilities, including site work and renovation work in the existing facility if applicable. This will be noted as part of the Contractor's three week look ahead schedule submitted at weekly progress meetings with the County.
- 4.14.7 Patching shall successfully duplicate undisturbed adjacent finishes, colors, textures, and profiles. Where there is dispute as to whether duplication is successful or has been achieved to a reasonable degree, the County's design consultant and County Project Manager's judgment shall be final.
- 4.14.8 Thoroughly clean areas and spaces where cutting and patching is performed or used as access. Remove completely paint, mortar, oils, putty and items of similar nature. Thoroughly clean piping, conduit and similar features before painting or other finishing is applied. Restore damaged pipe covering to its original condition.
- 4.15 CLEANING UP
- 4.15.1 The Contractor shall at all times keep the premises free from accumulation of waste materials or rubbish caused by the Contractor's operations. At the completion of the Work, the Contractor shall remove all of Contractor's waste materials and rubbish from and about the Project as well as all the Contractor's tools, construction equipment, machinery and surplus materials.
- 4.15.2 If the Contractor fails to clean up at the completion of the Work, the County may do so as provided in Paragraph 3.4 and the cost thereof shall be paid by the Contractor.
- 4.15.3 Keep work and storage areas clean and free of rubbish and perform protective and



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clean-up work within one day of being notified by County.

4.15.4 Dispose of trash resulting from work, off County property, as it accumulates. Pay fees required for trash disposal. No burning on County property is allowed.

4.16 ROYALTIES AND PATENTS

4.16.1 The Contractor shall pay all royalties and license fees, shall defend all suits or claims for infringement of any patent rights and shall defend and save the County harmless from loss on account thereof, except that the County shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is selected by the Project Manager. If the Contractor knows that the design, process or product selected is an infringement of a patent, the Contractor shall be responsible for such loss unless such information is promptly given to the others.

4.17 INDEMNIFICATION

4.17.1 To the fullest extent permitted by law, the Contractor shall indemnify, hold harmless and defend the County, its agents, employees, and Project Manager from and against all claims, damages, losses and expenses arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, and (2) is caused by any act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph 4.17.

4.17.2 In any and all claims against the County, the Project Manager, or any of their agents or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Paragraph 4.17 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

4.17.3 The obligations of the Contractor under this Paragraph 4.17 shall not extend to the liability of the County, Project Manager or Engineer, their agents or employees, arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications, or (2) the giving of or the failure to give directions or instructions by the Project Manager, their agents or employees, provided such giving or failure to give directions is the primary cause of the injury or damage, or (3) any other act within the scope of the County's or its agents' control.

4.18 NONDISCRIMINATION CLAUSE

4.18.1 During the performance of this work, Contractor and its Subcontractors shall not deny benefits to any person on the basis of religion, color, ethnic group identification, sex, age, physical or mental disability, nor shall they unlawfully



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discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age (over 40), marital status, or other protected status, nor deny family care leave and or pregnancy disability leave in connection with any program or activity funded in whole or in part by Federal and/or State funds provided through this work.

- 4.18.2 Contractor and its Subcontractor shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and all Subcontractors shall comply with the provisions of the California Fair Employment and Housing Act (Government Code section 12990 et seq.) and the applicable regulations promulgated thereunder.
- 4.18.3 The applicable regulation of the Fair Employment and Housing Commission implementing Government Code section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulation are incorporated into this contract by reference and made a part hereof as if set forth in full. Contractor and its Subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- 4.18.4 Contractor shall comply with all applicable nondiscrimination laws and regulations.
- 4.18.5 The Contractor and its Subcontractor shall include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under this contract.

ARTICLE 5 SUBCONTRACTORS

5.1 DEFINITION

- 5.1.1 A Subcontractor is a person or entity that has a direct contract with the Contractor to perform any of the Work at the site. The term Subcontractor means a Subcontractor or a Subcontractor's authorized representative. The term Subcontractor does not include any separate contractor or any separate contractor's subcontractors.
- 5.1.2 A subcontractor is a person or entity that has a direct or indirect contract with a subcontractor to perform any of the work at the site. The term subcontractor means a subcontractor or an authorized representative thereof.

5.2 AWARDS OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

- 5.2.1 The Contractor shall only use subcontractors included in its sealed bid unless a substitution is first approved by the County pursuant to statute.
- 5.2.2 The Contractor shall not use any subcontractor who is ineligible to perform work on a Public Works Project pursuant to section 1777.1 or 1777.7 of the Labor Code.

5.3 SUBCONTRACTUAL RELATIONS



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- 5.3.1 By an appropriate agreement, written where legally required for enforceability, the Contractor shall require each Subcontractor, to the extent of the work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by these Documents, assumes toward the County and the Project Manager. Said agreement shall preserve and protect the rights of the County and the Project Manager under the Contract Documents with respect to the work to be performed by the Subcontractor so that the subcontracting thereof will not prejudice such rights. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with their Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the Subcontract, copies of the Contract Documents to which the Subcontractor will be bound by this Paragraph 5.3 and identify to the Subcontractor any terms and conditions of the proposed Subcontract which may be at variance with the Contract Documents. Each Subcontractor shall similarly make copies of such Documents available to their Sub-subcontractors. Nothing contained herein shall be deemed to create an agency relationship between the County and any Subcontractor or material supplier.
- 5.3.2 The submission or addition of Subcontractors shall be permitted only as authorized by Public Contracts Code Section 4100, et. seq. The Subcontractors employed by the Contractor shall be appropriately licensed in conformity with the laws of the State of California.
- 5.3.3 Nothing contained in this Contract shall create any contractual relationship between any Subcontractor and the County nor create any contractual relationship between any Subcontractor and the Project Manager or the Project Engineer.
- 5.3.4 Jurisdictional disputes between Subcontractors or between Contractor and Subcontractor shall not be mediated or decided by the County, Architect/Engineer or the Project Manager. The Contractor shall be responsible for the resolution of all such disputes based upon his contractual relationship with his Subcontractors.

ARTICLE 6
WORK BY COUNTY OR BY
SEPARATE CONTRACTORS

- 6.1 COUNTY'S RIGHT TO PERFORM WORK AND TO AWARD SEPARATE CONTRACTS
- 6.1.1 The County reserves the right to perform work related to the Project with the County's own forces, and to award separate contracts in connection with other portions of the Project or other work on the site under these or similar Conditions of the Contract. If the Contractor claims that delay, damage or additional cost is involved because of such action by the County, the Contractor shall make such claim as provided elsewhere in the Contract Documents.
- 6.1.2 When separate contracts are awarded for different portions of the Project or other work on the site, the term Contractor in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.



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- 6.1.3 The County shall provide for coordination of the activities of the County's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the County in reviewing their construction schedules when directed to do so. The Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the County until subsequently revised.
- 6.1.4 Unless otherwise provided in the Contract Documents, when the County performs construction or operations related to the Project with the County's own forces, the County shall be deemed to be subject to the same obligations and to have the same rights which apply to the Contractor under the Conditions of the Contract including, without excluding others, those stated in Article 4, this Article 6 and Articles 10, 11 and 13.
- 6.2 MUTUAL RESPONSIBILITY
- 6.2.1 The Contractor shall afford the County and separate contractor's reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.
- 6.2.2 When any part of the Contractor's Work depends for proper execution or results upon the work of the County or any separate contractor, the Contractor shall, prior to proceeding with the Work, promptly report to the Project Manager any apparent discrepancies or defects in such other work that render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acceptance of the County's or separate contractor's work as fit and proper to receive the Work, except as to defects that may subsequently become apparent in such work by others.
- 6.2.3 If, following the reporting of any discrepancy or defect as required in subparagraph 6.2.2 above, the Contractor suffers damage due to disruption or delay caused by the separate contractor, Contractor shall be entitled to compensation for any damage, disruption or delay incurred. Contractor shall not be entitled to any compensation if Contractor fails to report as required in subparagraph 6.2.2 or contributes to the damage or delay in anyway.
- 6.2.4 Any costs caused by defective or ill-timed work shall be borne by the contractor causing the defective or ill-timed work through its respective contract with the County.
- 6.2.5 Should the Contractor cause damage to the work or property of the County, or to other work or property on the site, the Contractor shall promptly remedy such damage as provided in Subparagraph 10.2.5.
- 6.2.6 Should the Contractor wrongfully delay or cause damage to the work or property of any separate contractor, the Contractor shall, upon due notice, promptly attempt to settle with such other contractor by agreement, or otherwise to resolve the dispute. If such separate contractor sues the County on account of any delay or



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damage alleged to have been caused by the Contractor, the County shall notify the Contractor who shall defend such proceedings, and if any judgment or award against the County arises, the Contractor shall pay or satisfy it and shall reimburse the County for all costs which the County has incurred.

6.3 COUNTY'S RIGHT TO CLEAN UP

6.3.1 If a dispute arises between the Contractor and separate contractors as to their responsibility for cleaning up as required by Paragraph 4.15, the County may clean up and the contractor responsible therefore shall pay County such portions of the cost thereof as the Project Manager shall determine to be just.

ARTICLE 7
MISCELLANEOUS PROVISIONS

7.1 GOVERNING LAW

7.1.1 The Contract shall be governed by the law of the State of California.

7.2 SUCCESSORS AND ASSIGNS

7.2.1 The County and the Contractor, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants, agreements and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract or sublet it as a whole without the written consent of the other

7.3 WRITTEN NOTICE

7.3.1 Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the firm or entity or to an officer of the corporation for whom it was intended, or if delivered at or sent by registered or certified mail to the person and address shown in Article 7 of the Agreement.

7.4 CLAIMS AND DISPUTES RESOLUTION

7.4.1 A Claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time, arising out of or relating to the Contract or a request for equitable adjustment or Change Order which cannot be resolved per provisions of Article 12. Any Claim shall be reduced to writing and filed with the CPM Division Manager, Solano County (or his/her designee), within twenty calendar days after the Contractor has notice of the condition giving rise to the Claim, and final action per Article 12 procedures has taken place or has been declared as such in writing, by either party. Such twenty-day notice of an asserted claim is in addition to the requirement for prompt notice required per Paragraph 12.3.

7.4.2 The Contractor shall not claim or recover any overhead cost administrative or otherwise, particularly 'Home Office' expenses, 'Extended site overhead', or any other overhead cost on the basis of any 'Home Office' damages formula, 'Eichleay' formula, 'Total Cost' recovery formula or any other such formula.

7.4.3 Contractor shall make any claims in writing within the time set forth above, for any unreasonable delay or hindrance caused by County, and specifying the cause



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thereof as required in **7.4.4 below**, and nothing herein shall preclude recovery for damages for delay under other provisions of the Contract.

7.4.4 REQUIREMENTS FOR FILING A CLAIM: Claims must be filed within the time specified in 7.4.1 above, but in no event later than the date of final payment. Claims shall be submitted to the CPM Division Manager, Solano County (or his/her designee). The claim shall be in writing and shall be sum certain if known. If unknown, Contractor shall specify the basis for establishing the sum certain. Claim shall include a statement of the reasons for the asserted entitlement and include the documents necessary to substantiate the claim. Such documents may include but are not limited to payroll records, purchase orders, quotations, invoices, estimates, subcontracts, daily logs, supplier contracts, subcontract billings, bid takeoffs, equipment rental invoices, ledgers, journals, daily reports, job diaries, and any documentation related to the requirements of Article 12. In the case of a continuing delay, only one claim is necessary. If adverse weather conditions are the basis for a claim for additional time, such claim shall be documented by data substantiating that weather conditions were abnormal for the period of time and could not have been reasonably anticipated, and that weather conditions had an adverse effect on the critical activities on the construction schedule. The Contractor shall certify, at the time of submission of a claim, as follows:

"I certify under penalty of perjury under the laws of the State of California, that the foregoing claim is made in good faith, that the supporting data are accurate, and in my opinion, justify the contract adjustments requested.

By: _____
(Contractor's signature)

Nothing in this subdivision is intended to extend the time limit or supersede notice requirements otherwise provided by contract for the filing of claims.

For any claim subject to this Article 7.4, the following requirements apply:

- .1 For claims of less than fifty thousand dollars (\$50,000), the County's CPM Division Manager shall review the facts pertinent to the claim, obtain additional information deemed necessary for a decision (if any), review recommendations of the Project Manager, coordinate with the contract administrator (if any) and secure assistance from legal and other advisors, and render a written decision on the claim within 45 days of receipt of the claim. If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the CPM Division Manager and claimant. The CPM Division Manager's written response to the claim, as further documented, shall be submitted to the claimant within 15 days after receipt of the further documentation or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.
- .2 For claims of over fifty thousand dollars (\$50,000) and less than or equal to three hundred seventy-five thousand dollars (\$375,000), the CPM Division Manager shall review the facts pertinent to the claim, obtain additional information deemed necessary for a decision (if any), review



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recommendations of the Project Manager, coordinate with the contract administrator (if any) and secure assistance from legal and other advisors, and render a written decision on the claim within 60 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses or claims the County may have against the claimant. If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the County, Project Manager, and the claimant. The CPM Division Manager's written response to the claim, as further documented, shall be submitted to the claimant within 30 days after receipt of the further documents, or a period of time no greater than that taken by the claimant in producing the additional information or requested documentation, whichever is greater.

- .3 If the claimant disputes the written response of the CPM Division Manager, or fails to respond within the time prescribed, the claimant may so notify the County Administrative Officer, in writing, either within 15 days of receipt of the CPM Division Manager's response or within 15 days of the CPM Division Manager's failure to respond within the time prescribed, respectively, and demand an FORMAL conference to meet and confer for settlement of the issues in dispute. Upon a demand, the CPM Division Manager (or his/her designee) shall schedule a meet and confer conference within 30 days for settlement of the dispute.
- .4 Within 10 business days following the meet and confer conference, County shall provide a written statement identifying the portion of the claim that remains in dispute. Any payment due on the undisputed portion of the claim will be made within 60 days of the meet and confer conference.
- .5 Following the meet and confer conference, if a portion remains in dispute, the disputed portion, as identified by the Contractor in writing, shall be submitted to nonbinding mediation, with the costs of the nonbinding mediation shared equally by Contractor and County. County and Contractor shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator.
- .6 If the mediation is unsuccessful and the claim or any portion remains in dispute, the claimant may file a claim pursuant to Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the claimant submits his or her written claim pursuant to subdivision (a) until the time the claim is denied, including any period of time utilized by the meet and confer conference.

7.4.5 CLAIMS AND DISPUTES EXEMPT FROM FILING REQUIREMENTS: The procedures and remedies provided in this Article 7.4 do not apply to:

- .1 Any claims by the County;



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- .2 Any claim for or respecting personal injury or death or reimbursement or other compensation arising out of or resulting from liability for personal injury or death;
 - .3 Any claim or dispute relating to stop payment requests or stop notices; and
 - .4 Any claim related to the approval, refusal to approve, or substitution of subcontractors, regardless of tier, and suppliers.
- 7.4.6 PAYMENT OF UNDISPUTED PORTION OF CLAIM: County shall pay claimant such portion of a claim that is undisputed except as otherwise provided in the contract.
- 7.4.7 CONTINUE WORK DURING DISPUTE: In the event of any dispute between the County and the Contractor, the Contractor will not stop work but will prosecute the work diligently to completion in his manner directed by the County, and the dispute shall be resolved by a court of law after completion of the Work. However, Contractor must submit all disputes in accordance with the provisions of Article 7.4.
- 7.4.8 SUIT IN SOLANO COUNTY ONLY: Any litigation arising out of this Contract shall be brought in Solano County and Contractor waives the removal provisions of California Code of Civil Procedure section 394. All parties waive the right to a jury trial.
- 7.5 PERFORMANCE BOND, LABOR AND MATERIAL PAYMENT BOND AND WARRANTY BOND
- 7.5.1 The Contractor shall furnish Performance Bond in the amount of 100% of the Contract amount, Payment Bond in the amount of 100% of the Contract amount and One Year Warranty Bond in the Amount of 10% of the final Contract Amount.
- 7.5.2 All bonds required, whether Bid bonds, Performance, Payment, Warranty or other bonds, shall be issued by an admitted surety insurer. **The Bid Bond, Performance Bond, Payment Bond, and Warranty Bond must be issued by the same admitted surety insurer.** The payment, performance and warranty bonds required by these specifications will neither be accepted nor approved by the County unless the bonds are underwritten by an admitted surety and the requirements of California Code of Civil Procedure section 995.630 are met. The County further reserves the right to satisfy itself as to the acceptability of the surety and the form of bond. Upon request of the County, the bidder must submit the following documents:
- .1 The original, or a certified copy, of the unrevoked appointment, power of attorney, bylaws, or other instrument authorizing the person who executed the bond to do so.
 - .2 A certified copy of the certificate of authority of the insurer issued by the California Insurance Commissioner.
 - .3 A certificate from the county clerk that the certificate of authority has not been surrendered, revoked, canceled, annulled, or suspended, or in the event that it has, that renewed authority has been granted.
 - .4 A financial statement of the assets and liabilities of the insurer to the end of the quarter calendar year prior to 30 days next preceding the date of the



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execution of the bond, in the form of an officers' certificate as defined in Corporations Code § 173.

7.6 RIGHTS AND REMEDIES

7.6.1 The duties and obligations imposed by the Contract Documents and the rights and remedies available shall be in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

7.6.2 No action or failure to act by the County, the Project Manager, the Architect/Engineer or the Contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach, except as may be specifically agreed in writing.

7.7 TESTS AND INSPECTION

7.7.1 Any public authority having jurisdiction over the Project or funds used for the Project shall at all times have access for the purpose of observation to all parts of the Work and to all shops wherein the work is in preparation. The Contractor shall cooperate and furnish such facilities and assistance as needed for the County and County's agents.

7.7.2 Where the Contract Documents, instructions by the County, laws, ordinances, or any public authority having jurisdiction, requires Work to be inspected, tested or approved before work proceeds, such Work shall not proceed, nor shall it be covered up without inspection.

7.7.3 The Contractor shall give notice to the Project Manager and County a minimum of two (2) working days in advance of the readiness for any Contract compliance inspection by the County Inspector of Record or any other inspector required by statute. The Contractor shall give notice as required by all other inspecting and testing agencies of jurisdiction for Code and regular compliance inspection. In all cases, the Contractor shall schedule inspections so as not to delay the Work.

7.7.4 If the Project Manager determines that any Work requires special inspection, testing or approval which Subparagraph 7.7.1 does not include, the Project Manager will, upon written authorization from the County, instruct the Contractor to order such special inspection, testing or approval, and the Contractor shall give notice as provided in Subparagraph 7.7.3. If such special inspection or testing reveals a failure of the Work to comply with the requirements of the Contract Documents, the Contractor shall bear all costs thereof, including compensation for the Project Manager's additional services, testing or inspections made necessary by such failure; otherwise, the County shall bear such costs, and an appropriate Change Order shall be issued.

7.7.5 Required certificates of inspection, testing or approval shall be secured by the Contractor and the Contractor shall promptly deliver them to the Project Manager.

7.7.6 If the Project Manager wishes to observe the inspections, tests or approvals required by the Contract Documents, Project Manager will do so promptly and, where practicable, at the source of supply.



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7.8 TEMPORARY FACILITIES AND CONTROLS

7.8.1 Temporary Use of Permanent Facilities: Installer of each permanent service shall assume responsibility for operation, maintenance, and protection of each permanent service during its use as a construction facility before Owner's acceptance, regardless of previously assigned responsibilities.

7.8.2 Locate facilities where they will serve Project adequately and result in minimum interference with the public and performance of County staff. Relocate and modify facilities as required by progress of the Work.

7.8.3 Provide each facility ready for use when needed to avoid delay. Do not remove until facilities are no longer needed or are replaced by authorized use of completed permanent facilities.

7.8.4 Waste Disposal Facilities: Provide waste-collection containers in sizes adequate to handle waste from construction operations. Comply with requirements of authorities having jurisdiction.

7.8.5 Temporary Utilities

.1 Cost or use charges for temporary facilities shall be included in the Contract Sum. Allow other entities to use temporary services and facilities without cost, including, but not limited to, Project Manager, Architect, County representatives, testing agencies, and authorities having jurisdiction. Arrange with utility company, Owner, and existing users for time when service can be interrupted, if necessary, to make connections for temporary services. The Contractor will not abuse this privilege and will exercise appropriate conservation measures.

.2 Damaged receptacles, fixtures, equipment, etc. from use of existing utility service will be replaced or repaired at the expense of the Contractor to condition equal to that existing prior to commencing work of this Contract. See Article 10 – Protection of Persons and Property herein.

.3 County's existing water systems and electric power are available for use without metering and without payment of use charges. Provide connections and extensions of services as required for construction operations.

.4 If the Contractor needs to interrupt power, telephone/data, sewer, gas or other required utilities (for any reason) to the existing facilities, the Contractor must provide, at Contractor's expense, a means to provide temporary power, telephone/data, sewer, gas or other required utilities to the existing facility. The Contractor must notify the Project Manager (in writing) at least ten (10) working days before the utility interruption. Notification must include (by both diagram and written form) the plan for providing uninterrupted temporary power and the duration.

.5 Contractor shall use a separate mailing address from the Project for all USPS/UPS/FedEx or other delivery services for mail and package deliveries. No deliveries will be accepted at the existing facility under any circumstances.

.6 Temporary Electrical Facilities

a. Provide such temporary electrical facilities as are necessary to supply temporary lighting for all work operations (inside and outside



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- of building) and temporary power for portable power-driven tools and other Contractor equipment.
 - b. Construction Requirements: Construct and maintain temporary electrical facilities in accordance with CCR, Title 24, Part 3, Basic Electrical Regulations, all local codes and PG&E rules and regulations. Materials, devices, and equipment used for these facilities shall be in good and safe condition. Comply with NECA, NEMA, and UL standards and regulations. Install service to comply with NFPA 70.
 - c. Temporary electrical materials and equipment furnished and installed by Contractor for required facilities.
 - d. Power consumption shall not disrupt the County staff's need for continuous service. Ensure use of existing outlets does not interfere with use and function of the County services (telephone, data, computer, power, etc.).
- .7 Temporary Heat
- a. Heating and Cooling: Provide temporary heating and cooling required by construction activities in order to maintain ventilation and temperature in the human comfort zone at public and staff areas. Provide temporary heating and cooling required by construction activities for curing or drying of completed installations or for protecting installed construction from adverse effects of low temperatures or high humidity. Select equipment that will not have a harmful effect on completed installations or elements being installed.
 - b. Ventilation and Humidity Control: Provide temporary ventilation required by construction activities for curing or drying of completed installations or for protecting installed construction from adverse effects of high humidity. Select equipment that will not have a harmful effect on completed installations or elements being installed. Coordinate ventilation requirements to produce ambient condition required and minimize energy consumption.
- .8 Temporary Water Service:
- a. Install water service and distribution piping in sizes and pressures adequate for construction.
 - b. Use of Owner's existing water service facilities will be permitted, as long as facilities are cleaned and maintained in a condition acceptable to Owner.
 - c. Where installations below an outlet might be damaged by spillage or leakage, provide a drip pan of suitable size to minimize water damage. Drain accumulated water promptly from pans.
- 7.8.6 Construction Equipment
- .1 Erect, equip, operate, and maintain construction equipment in strict accordance with applicable statutes, laws, ordinances, rules, and regulations of authorities having jurisdiction.
 - .2 Provide and maintain scaffolding, staging, runways, and similar equipment, as needed.
 - .3 Provide and maintain hoists and related lift equipment, including equipment for hoisting workmen; complete with operators, power and signals, as



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required (per Safety Orders of State of California, Division of Industrial Safety) until completion of the Work under this Contract or until no longer required on jobsite.

7.8.7 Safety Precautions

- .1 Provide and maintain barricades, fencing, shoring, pedestrian walkways, including attached lights, other lights, and other safety precautions to properly guard against personal injury and property damage as prescribed by authority having jurisdiction. (See also Article 10 herein).
- .2 In addition, Contractor for Work under this Contract shall provide such additional safety precautions as may be prescribed by the County of Solano. Fully inform each subcontractor and material supplier as to requirements of applicable Safety Orders. (See also Article 10 herein).
- .3 Attention is directed to Safety Orders issued by the State of California, Division of Industrial Safety. Contractor shall obtain and post copies of Safety Orders applicable to type of work to be performed and shall be governed by requirements thereof in construction operations.

7.8.8 Roads And Accessways

- .1 Entrance to Work Site: There is very limited access for the site. Contractor and Contractor's employees and subcontractors shall use certain access roads or entranceways as indicated on Plans or as directed by County. Contractor will be required to maintain all existing access to the existing facility to ensure complete, uninterrupted operations.
- .2 Maintain these roads in satisfactory condition during Contract time, and repair damages attributable to Work of this Project at intervals as needed. Contractor shall inspect roads after each rainfall measuring more the 0.10" and resurface as necessary. At completion of Contract, roads and entrance ways shall be left in condition at least equal to that existing at start of Contract, except as may be otherwise required by Contract documents.
- .3 Permanent Improvements: Where Contract calls for permanent sidewalk, road, and other ground improvements, and when such permanent improvements are completed, or essentially completed within construction period, Contractor does not have vested right to use such improvements as temporary facilities.
- .4 Use of permanent improvements by Contractor shall be subject to approval by County.

7.8.9 Use Of County Property

- .1 Parking: Use designated areas of Owner's existing parking areas for construction personnel.
- .2 On Site Storage and Work Areas: The County will allocate available on-site storage and work areas to Contractor, subject to change as may be necessary by job progress, such as site development or other intervening work.
- .3 County Property: Except as otherwise shown or specified, Work operations shall be confined to County property and shall not encroach on areas other than those designated or approved for such use by County. (See Article 3 – County, Paragraph 3.14. herein).
- .4 Ascertain, observe, and comply with rules and regulations in effect at occupied County facilities, including, but not restricted to, parking and traffic



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- regulations, security restrictions, hours of allowable ingress and egress as to main arteries, occupied buildings, and the like.
- .5 Use of Sidewalks and Streets: Contractor shall not make use of sidewalks and streets adjacent to the entrance to the Project site.
 - .6 Parking and Traffic Regulations: All parking for this Project shall be confined to the Project site and within the 'Limits of Work' area. Contractor, subcontractors, material delivers, visitors, County personnel and consultants, and other parties shall not park on the existing facility site.
 - .7 Existing Improvements in sidewalks and Streets: Existing Street signs, electroliers, traffic signage, fire hydrants, underground valves and meter boxes, manholes, trees and other items occurring in sidewalk areas or in streets adjacent to the Project shall be left undisturbed, unobstructed, and easily accessible at all times during construction, except as otherwise indicated or agreed to between Contractor and County.
 - .8 Covering, moving, trimming, or altering which may become necessary to complete construction operations shall be done only with consent of and in cooperation with County and others having jurisdiction. Contractor shall pay all costs, which may be incurred.
 - .9 Contractor shall make detailed examination of such adjacent property at start of work and conditional shall be noted by Contractor and confirmed by the County.
 - a. Contractor, if damaged by this work, shall repair public and private streets, sidewalks and curbs, and other existing improvements therein adjacent to the site, at intervals as required to keep improvements functional. At completion of Project, all such items not included in Contract shall be left in condition equal to that at start of construction.
 - b. Repair work shall conform to requirements of public authorities having jurisdiction. This includes, but not limited to, temporary walks for pedestrians, cleaning of mud and debris, air pollution control, and traffic control.
 - .10 Protection of County-Owned Trees and Shrubs: Existing County-owned trees and shrubs to remain shall not be injured during the course of this Work.
 - a. Irrigate trees and shrubs, which are to remain within 'Limits of Work' area, as directed by County.
 - b. It is agreed that the Contractor shall replace each damaged tree or shrub with like species and size should any tree or shrub be injured or damaged as a result of construction operations of the Project.
 - .11 Protection of Existing Utilities: Utility service lines found entering site and not indicated to remain or to be incorporated in the facility/site, shall be plugged, capped, or otherwise abandoned by Contractor in a manner satisfactory to Utility Companies whose services are involved, except as otherwise required. Protect from damage, existing utility lines not specified to be altered by Work of this Contract; any such features damaged shall be repaired or replaced to condition equal to that existing prior to commencing work of this Contract. See Article 10 herein.
 - .12 Provide and maintain dewatering and pumping facilities to keep site reasonably dry, and to protect materials and installed work from water damage until dewatering is no longer required. Comply with requirements



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of authorities having jurisdiction. Maintain Project site, excavations, and construction free of water. Dispose of rainwater in a lawful manner that will not result in flooding Project or adjoining properties nor endanger permanent Work or temporary facilities.

7.8.10 Noise and Dust Abatement

- .1 Perform any noisy operations outside of regular working hours; include 'extra' cost in Bid Price. Such work shall be done at times convenient to County and shall be approved by County at least 72 hours in advance.
- .2 Control dust resulting from all construction operations by localizing it to the greatest practicable extent using temporary fencing, partitions, curtains, or other means which will prevent spread of dust beyond immediate work areas. Duct openings and other openings communicating with other portions of building or systems shall have effective temporary closures.
- .3 Use water wagons or spray from hoses to control dust created by outdoor work operations in areas on County property and within the 'Limits of Work' during the entire period of this Contract as directed by the County; also, satisfactory control dust created by construction operations on property used, other than County property, to satisfaction of County and other responsible parties.

7.8.11 Security and Protection Facilities Installation

- .1 Contractor is responsible for security of buildings and grounds within the 'Limits of Work' involved in this Project, including other subcontractors and County facilities, during entire time of Contract. Make good all damages to work and loss of materials due to vandalism or theft, within this responsibility.
- .2 Environmental Protection: Provide protection, operate temporary facilities, and conduct construction in ways and by methods that comply with environmental regulations and that minimize possible air, waterway, and subsoil contamination or pollution or other undesirable effects.
- .3 Temporary Erosion and Sedimentation Control: Provide measures to prevent soil erosion and discharge of soil-bearing water runoff and airborne dust to adjacent properties and walkways, according to requirements of authorities having jurisdiction.
- .4 Tree and Plant Protection: Install temporary fencing located as indicated or outside the drip line of trees to protect vegetation from damage from construction operations. Protect tree root systems from damage, flooding, and erosion.
- .5 Pest Control: Engage pest-control service to recommend practices to minimize attraction and harboring of rodents, roaches, and other pests and to perform extermination and control procedures at regular intervals so Project will be free of pests and their residues at Substantial Completion. Obtain extended warranty for Owner. Perform control operations lawfully, using environmentally safe materials.
- .6 Site Enclosure Fence: Before construction operations begin, furnish and install site enclosure fence in a manner that will prevent people and animals from easily entering site except by entrance gates. Maintain security by limiting number of keys and restricting distribution to authorized personnel. Provide lockable entrances to prevent unauthorized entrance, vandalism,



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- theft, and similar violations of security.
- .7 Barricades, Warning Signs, and Lights: Comply with requirements of authorities having jurisdiction for erecting structurally adequate barricades, including warning signs and lighting.
- .8 Temporary Enclosures: Provide temporary enclosures for protection of construction, in progress and completed, from exposure, foul weather, other construction operations, and similar activities. Provide temporary weathertight enclosure for building exterior.
- .9 Temporary Fire Protection: Install and maintain temporary fire-protection facilities of types needed to protect against reasonably predictable and controllable fire losses. Comply with NFPA 241. Prohibit smoking in construction areas. Supervise welding operations, combustion-type temporary heating units, and similar sources of fire ignition according to requirements of authorities having jurisdiction. Develop and supervise an overall fire-prevention, protection, and detection program for personnel at Project site. Review needs with local fire department and establish procedures to be followed during installation of new fire alarm system to ensure fire detection system is maintained at all times. Instruct personnel in methods and procedures. Post warnings and information.

7.8.12 Termination and Removal:

- .1 Remove each temporary facility when need for its service has ended, when it has been replaced by authorized use of a permanent facility, or no later than Substantial Completion. Complete or, if necessary, restore permanent construction that may have been delayed because of interference with temporary facility. Repair damaged Work, clean exposed surfaces, and replace construction that cannot be satisfactorily repaired.
- .2 Materials and facilities that constitute temporary facilities are property of Contractor. Owner reserves right to take possession of Project identification signs.
- .3 At Substantial Completion, clean and renovate permanent facilities used during construction period. Comply with final cleaning requirements.

7.9 PROJECT MEETINGS

7.9.1 Preconstruction Conferences

Prior to commencement of Work, a pre-construction conference will be held to discuss procedures to be followed during the progress of the Work. The meeting will be scheduled after execution of the agreement and prior to commencement of work. Location to be on-site and attendants shall be County's Representative/ Project Manager, Architect, Contractor, Contractor's Superintendent, Major Subcontractors, County's Facilities Operations' Manager, and Other's as appropriate.

7.9.2 Progress Meetings

- .1 The Project Manager will schedule and hold meetings weekly/bi-weekly. The Project Manager will prepare the Agenda for such meetings and distribute to the County representatives, the Architect, the Contractor, and other interested parties at the next successive meeting.
- .2 Review and correct or approve minutes of the previous progress meeting. Review other items of significance that could affect progress. Include



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topics for discussion as appropriate to the current status of the Project.

- .3 Review Contractor's construction progress/schedule since the last meeting. Determine where each activity is in relation to the Contractor's Construction Schedule, whether on time or ahead or behind schedule.
- .4 Reporting: No later than each successive meeting, the Project Manager will distribute copies of minutes of the meeting to each party present. Include a brief summary, in narrative form, of progress since the previous meeting and report.

7.9.3 Pre-Punch List Meeting

- .1 After notification is provided to the Project Manager that the contractor is ready for a punch list to be generated, the Project Manager shall hold a meeting to review the expectations of the punch list.
- .2 Attending shall be County's Representative/ Project Manager, Architect, Architect's Sub-consultants, Contractor, Contractor's Superintendent, Major Subcontractors, County's Facilities Operations' Manager, and Other's as appropriate.

7.10 CONTRACT CLOSEOUT

7.10.1 Contractor shall start developing and completing punch list items prior to Final Completion of the Contract Time as specified in Section 00 73 00 – Supplementary Conditions, Article 1.3, Time of Completion.

7.10.2 Contractor shall achieve Final Completion of the project within thirty (30) calendar days of project Substantial Completion.

7.10.3 When Contractor considers the Work complete, the Contractor shall request, in writing, a final inspection to be conducted by the County Project Manager. The County Project Manager shall conduct a final inspection within 7 calendar days of receipt of the written request. Prior to requesting a final inspection, the Contractor shall have the entire Work completed in accordance with all Contract Requirements, including, but not limited to, all punch list items, and submittal of all documents and products listed in this section and other sections of the Project Manual. It is recommended that the Contractor request the final inspection as early as possible, and prior to the end of Contract Time, to allow for completion of punch list items discovered to be incomplete during the final inspection and for a final re-inspection, to avoid assessment of liquidated damages.

7.10.4 The date of Substantial Completion of the Work and Beneficial Occupancy will be determined as specified in Article 9 – Payments and Completion herein.

7.10.5 Final cleaning shall be completed prior to occupancy or requesting a final inspection, whichever comes first.

7.10.6 Record Drawings:

- .1 Record the following kinds of information on prints:
 - a. Changes made by Change Orders and other modifications described in the GENERAL CONDITIONS.
 - b. Locations of significant Work concealed inside the building whose general locations have been changed from those shown on the



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- Contract Documents.
- c. Locations of items, not necessarily concealed, which have been changed, with the Architect's prior acceptance, from the locations shown on the Contract Documents.
 - d. Revisions to routing of piping and conduit. Revisions to electrical circuitry. Actual equipment locations. Duct size and routing.
- .2 Furnish reproducible record drawings, made from final Shop Drawings which have been updated to show actual conditions, for Work specified in the individual Specification SECTIONS.
 - .3 Mark completely and accurately record prints of Contract Drawings or Shop Drawings, whichever is most capable of showing actual physical conditions. Where Shop Drawings are marked, show cross-reference on Contract Drawing location.
 - .4 Mark record sets with red non-erasable colored pencil/pen; use other colors to distinguish between changes for different categories of the Work at the same location.
 - .5 Note Change Order numbers, Work Authorization numbers, and similar identification.
 - .6 Responsibility for Mark-up: Where feasible, the individual or entity who obtained record data, whether the individual or entity is the installer, subcontractor, or similar entity, is required to prepare the mark-up on record Drawings.
 - a. Accurately record information in an understandable Drawing technique.
 - b. Record data as soon as possible after it has been obtained. In the case of concealed installation, record and check the mark-up prior to concealment.
 - .7 At time of acceptance of the Work and prior to final payment submit full size marked-up record set ("As-Built" drawings) in Adobe Acrobat PDF file format to the Project Manager for County's records.

7.10.7 Permits, Licenses, and Certificates

- .1 Submit original permit card(s), ensuring final building inspection from all jurisdictions are signed-off.
- .2 Submit copies of licenses, certifications, inspection reports, releases, jurisdictional settlements, notices, receipts for fee payments, judgments, and similar documents, correspondence, and records established in conjunction with compliance with standards and regulations bearing upon performance of the Work.

7.10.8 Daily Construction Reports, Final Change Order, Final Progress Payment, and Retention Payment

- .1 Submit all daily construction reports.
- .2 Submit for processing final change order.
- .3 Submit for processing final progress payment application (including all waivers and release forms).
- .4 Submit final pay application for release of retention (including all waivers and release forms), to be processed 35 days after Notice of Completion is filed.



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- 7.10.9 Miscellaneous Items
- .1 Contractor to return all County-issued badges and keys.
- 7.10.10 Operation Tests
- .1 Conduct operational tests as required to demonstrate that all systems have been completed and are in compliance with all requirements.
 - .2 Furnish a written record of test results using recording type instruments where applicable.
- 7.10.11 Operating, Maintenance, and Product Data
- .1 General: Where maintenance manuals, record data, and operating instructions are required in the individual Specification SECTIONS; and manufacturers' product data, specifications, installation instructions, and maintenance instructions for products incorporated in the Work; provide in PDF file format the following:
 - a. Project name and address, table of contents, and contact information of all contractors (name, address, phone number, and email address).
 - b. Complete instructions regarding operation and maintenance of the equipment included in the manual.
 - c. Complete nomenclature of replaceable parts, their part numbers, current cost, and name and address of nearest source of parts.
 - d. Prepare and include additional data as required for the instruction of the County's operating and maintenance personnel.
 - .2 Extraneous Data: Where contents of manuals include manufacturers' catalog pages, clearly indicate the items included in this installation and delete, or otherwise clearly indicate, data, which is not applicable to this installation.
 - .3 Shop Drawings: With each copy of the manual, furnish one set of applicable reviewed Shop Drawings showing changes made during construction.
 - .4 Before submittal of Request for Final Payment (and after Final Inspection), submit in PDF format to the Project Manager/Architect for review and approval.
- 7.10.12 Training of the County's Personnel
- .1 Where specified in the individual Specification SECTIONS, furnish qualified personnel for on-the-job instruction of the County's operating and maintenance personnel.
 - .2 Furnish instruction, including special start-ups and running time, changing from heating to cooling cycles, prior to occupancy of the building, at no additional expense to the County.
 - .3 Training:
 - a. Schedule training to conform to personnel availability at the facility and to conclude prior to startup of system. The base duration of training shall be determined by the complexity of the system or equipment and shall be done by qualified instructors from the manufacturer or contractor.
 - b. As part of the operator's training, provide a lesson plan (including video clips) to allow new employees to view at their own



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convenience and be able to comprehend the system without the need for an instructor in attendance.

- c. Training to include troubleshooting the systems and making routine repairs. All video clips shall be made at the Project facility to ensure that the video portrayal is representative of the true systems.

7.10.13 Guarantees/Warranties and Bonds

- .1 Submit the guarantees/warranties, typed on the Contractor's letterhead if for the entire Work, or on the Subcontractor's letterhead if for the Work of a Specification Section. Used attached Guarantee/Warranty form.
- .2 Provide guarantee/warranty verbiage in compliance with the standard guarantee/warranty form provided at the end of this section.
- .3 Compile, review, and transmit specified service and maintenance contracts as specified for guarantees/warranties and bonds.

7.10.14 Restoration of Damaged Work

- .1 Restore or replace, as specified or determined by the Architect, material and finishes damaged from construction activities at no additional expense to the County.
- .2 Restoration shall be equal to the original Work, and finishes shall match the appearance of existing adjacent Work.

7.10.15 Remedial Work

- .1 Remedial Work necessary owing to faulty workmanship or materials shall be at no additional expense to the County.
- .2 Work shall be coordinated with the County and performed at such time and in such manner to cause minimal interruption and inconvenience to the County's operations.

7.10.16 Spare Parts and Extra Materials

- .1 Where required in the individual Specification SECTIONS, furnish spare parts and extra materials in the quantities and manners specified. Prior to submitting any parts and materials submit a list of all extra parts and materials required in the specification sections.
- .2 Delivery and certification of such extra spare parts and materials shall be a prerequisite to Substantial Completion. Deliver to Project Manager for sign-off.
- .3 Package in clearly identifiable boxes.
 - a. Indicate manufacturer's name, part name, and stock number.
 - b. Indicate piece of equipment part or tool is for.
 - c. Indicate name, address and phone number of closest supplier.

7.10.17 Warranty Bond

- .1 Prior to Final Payment, Contractor shall post a one-year Warranty Bond in the amount of 10% of the Final Contract Price. Use attached Warranty Bond form.



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GUARANTEE/WARRANTY

_____ (Contractor) hereby unconditionally guarantees that the _____ Work described in SECTIONS _____ performed pursuant to the **Nut Tree Airport - Elevator Code Upgrade Project** has been done in accordance with the requirements of the Contract Documents and further guarantees the Work of the contract to be and remain free of defects in workmanship and materials for a period of _____ year(s) from the date of recordation of a Notice of Completion, Notice of Cessation, or actual cessation of Work, whichever is longer. The Contractor hereby agrees to repair or replace any and all Work, together with any adjacent Work which may have been damaged or displaced in so doing, that may prove to be defective in its workmanship or material within the guarantee period specified, without any expense whatsoever to Solano County; ordinary wear and tear, and unusual abuse and neglect only excepted. The Contractor has provided Contract bonds which will remain in full force and effect during the guarantee period.

The Contractor agrees that within ten (10) calendar days after being notified in writing by Solano County of any Work not in accordance with the requirements of the Contract or any defects in the Work, he will commence and prosecute with due diligence all Work necessary to fulfill the terms of this guarantee, and to complete the Work within a reasonable period of time. In the event he/she fails to so comply, he/she does hereby authorize Solano County to proceed to have such Work done at the Contractor's expense and he/she will pay the cost thereof upon demand. The County shall be entitled to all costs, including reasonable attorney fees, necessarily incurred upon the Contractor's refusal to pay the above costs.

Notwithstanding the foregoing paragraph, in the event of an emergency constituting an immediate hazard to the health or safety of the employees or property of Solano County, the County may undertake at the Contractor's expense without prior notice, all Work necessary to correct such hazardous condition when it was proven to be defective in its workmanship or materials, and to charge the same to the Contractor as specified in the preceding paragraph.

The guarantee set forth herein is not intended by the parties, nor shall it be construed, as in any way limiting or reducing Solano County's rights to enforce all terms of the Contract Documents referenced hereinabove or the time for enforcement thereof. This guarantee is in addition to, and not in lieu of, the County's rights on all other guarantees and warranties required by the Contract Documents.

Subcontractor Signature

Address, License Number

Date

Countersigned
By General Contractor

Address, License Number

Date



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WARRANTY BOND

KNOW ALL THESE MEN BY THESE PRESENTS:

That, _____(hereinafter called the Principal), as Principal, and _____, a corporation organized and existing under the laws of the State of _____, with its principal office in the City of _____(hereinafter called the Surety), as Surety, are held and firmly bound unto SOLANO COUNTY (hereinafter called the Obligee), in the amount of _____ Dollars (\$_____)for the payment whereof, well and truly be made, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Obligee, dated the____ day of _____, 2023, to the **Nut Tree Airport - Elevator Code Upgrade Project** which contract is hereby referred to and made a part hereof as fully and to the same extent as if copies at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal Shall maintain and remedy said work free from defects in materials and workmanship for a period of ____ year(s) effective _____. Then this obligation shall be null and void; otherwise remain in full force and effect.

Witness our hands this _____ day of _____, 2023.

Principal

Seal

By

Surety

Seal

By

Agency of Record

Agency Address



ARTICLE 8 **TIME**

8.1 DEFINITIONS

8.1.1 Unless otherwise provided, the Contract Time is the period of time allotted in the Contract Documents for Substantial Completion of the Work as defined in Subparagraph 8.1.3, including authorized adjustments to it.

8.1.2 The date of commencement of the Work is the date established in a Notice to Proceed. If there is no Notice to Proceed, it shall be such other date as may be established in the Owner-Contractor Agreement or elsewhere in the Contract Documents.

8.1.3 The Date of Substantial Completion of the Work or designated portion thereof is the Date certified by the Project Manager when construction is sufficiently complete, in accordance with the Contract Documents, so that the County or separate contractors can occupy or utilize the Work or a designated portion thereof for the use for which it is intended.

8.1.4 Contractor shall achieve Final Completion of the project within thirty (30) calendar days of project Substantial Completion.

8.1.5 The term "day" as used in the Contract Documents shall mean calendar day unless specifically designated otherwise.

8.2 PROGRESS AND COMPLETION

8.2.1 All time limits stated in the Contract Documents are of the essence of the Contract.

8.2.2 The Contractor shall begin the Work on the date of commencement as defined in Subparagraph 8.1.2.

8.2.3 The Contractor shall carry the Work forward expeditiously with adequate forces and shall achieve Substantial Completion of the Work within the Contract Time.

8.3 DELAYS AND EXTENSIONS OF TIME

8.3.1 The Contractor shall not be granted a Contract Time extension except on the issuance of a Change Order by the CPM Division Manager and County Administrative Officer, or the Board of Supervisors, upon a finding that the delay in completion was unavoidable.

8.3.2 Delays in prosecution of parts or classes of the Work that are not demonstrated to prevent or delay completion of the entire Project or specific milestones within the Contract Time are not "unavoidable delays" for purposes of this section.

8.3.3 In all cases, the time authorized for extension of the Contract Time shall be no greater than the number of days directly attributable to the unavoidable delay which cause delay in the completion of the Project. "Unavoidable delay" for this purpose shall be defined as follows:

.1 Unavailable Materials. That materials or articles called for in the Contract Documents are not obtainable within the time required for timely



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completion; provided that such materials or articles were listed by the Contractor in the schedule required by Section 4.10.2 hereinabove; that the Contractor demonstrates that the unavailability of the materials is in fact the cause for the delay, and could not have been procured by adjusting the Construction Schedule; and that the unavailability of such materials is due to circumstances beyond the Contractor's control. If good cause for delay is demonstrated pursuant to this subsection, the County, at its sole discretion, may grant a time extension.

.2 Force Majeure. That delays in construction have resulted from circumstances beyond the control of the Contractor and which the Contractor could not have provided against by the exercise of reasonable care, prudence, foresight, and diligence. Unavoidable delays within the meaning of this subparagraph shall be those caused by the acts of God, war, insurrection, civil disorder, fire, floods, epidemic, or strikes.

.3 Unseasonable Weather. An extension of time may be granted due to weather which is unsuitable for the Work currently in progress, upon the findings that the weather conditions in fact caused the delay in completion of the Project and that such weather conditions were not, and could not in the exercise of reasonable diligence, have been foreseen by the Contractor. Seasonable weather that, in the exercise of reasonable foresight and diligence, should be expected in the area at the time of year in question is not cause for an extension of time.

a. If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time and could not have been reasonably anticipated, and that weather conditions had an adverse effect on the scheduled construction.

b. A rain, windstorm, high water or other natural phenomenon of the specific locality of the work, which might reasonably have been anticipated from historical records of the general locality of the work, shall not be construed as abnormal. It is hereby agreed that rainfall greater than the following cannot be reasonably anticipated.

1. Daily rainfall equal to, or greater than, 1/4 of an inch, only when the number of such days in any given month exceeds the number of calendar days the parties agree is normal for the area as listed below:

<u>MONTH</u>	<u>Number of Calendar days (*)</u>
January	5 days
February	6 days
March	8 days
April	1 day
May	4 day
June	2 days
July	0 days
August	0 days
September	0 days
October	3 days
November	4 days
December	8 days



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- * Information gathered from National Weather Service/ National Oceanic and Atmospheric Administration website from Travis Air Force Base, Fairfield, California.
2. Rainfall data shall be assumed to be the same as that measured at Travis Air Force Base. In the event the number of days lost to rain during any given month exceeds those anticipated above, it is agreed that the Contractor will only consider such days as a basis for a Claim for Additional Time if the Contractor can demonstrate that the rain impacted the Critical Path of the Approved project schedule. Delay claims due to rainfall of one quarter inch or more overnight will be reviewed on a case-by-case basis for comparison with the nature of work scheduled for the following day.
 3. Unused anticipated rain-days shall be realized as Float to the Project and managed. If there are unused anticipated rain-days realized as Float, this would not reduce or modify the Substantial Completion date.
 4. Weather Allowance: The Preliminary Construction Schedule and the Master Construction Schedule will include in the overall contract duration an allowance for normal adverse weather. For this project, an allotment of thirteen (13) weather days for each winter weather period is to be indicated on the critical path as a single, separate activity. The winter weather period is defined as October 1st through March 31st, inclusive. County approved weather delays will be applied against the allotment. Once the allotment is exhausted the Contractor will be granted non-compensable time extensions for County approved weather delays.
- .4 Time Extensions Due to Change Orders or Work Authorizations. A time extension may be granted due to additional work that results in a delay in the Project caused by the approval by the County of a Change Order or Work Authorization. The Contractor shall be entitled to a time extension Change Order only when the extra Work is demonstrated by the Contractor to have impacted the critical path schedule of the Project.
- .5 County Caused Delays. In the event that the Project is delayed by acts or omissions of the County or anyone for whom the County is responsible, not authorized by the Contract Documents, which the Contractor demonstrates will or has caused an unavoidable delay, the Contractor shall be entitled to a Contract Time Change Order to offset the extra time incurred by the Contractor. Extra time shall be limited to that which is directly identified as critical by the delay.

8.3.4 NOTICE OF DELAYS

- .1 Whenever the Contractor foresees any delay in the prosecution of the Work, and in any event immediately upon the occurrence of any delay which the Contractor regards as grounds for an extension, the Contractor shall notify the Project Manager in writing of the delay. Such notification shall specify with detail the cause asserted by the Contractor to constitute grounds for an extension. Failure of the Contractor to submit such a notice



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within five (5) working days after the initial occurrence of the event-giving rise to the delay shall constitute a waiver by the Contractor of any request for a time extension, **and no extension shall be granted as a consequence of such delay.**

- .2 With its request for time extension, the Contractor shall submit evidence to demonstrate that the delay in prosecution in the Work will result in an unavoidable delay in completion of the entire Project. Such evidence shall include a demonstration that the delayed portion of the Work will affect the Critical Path Scheduling of the entire Project. The Contractor shall also submit a proposed revised Project Schedule, which accounts for the delay in completion of the entire Project caused by the delay in progression of part of the Project, and includes a revised Critical Path demonstrating how the Project will be completed within the proposed revised Contract Time.

8.3.5 INVESTIGATION PROCEDURE

- .1 Upon receipt of a request for Contract Time extension, the Project Manager shall conduct an investigation of the facts asserted by the Contractor to constitute grounds for an extension. The results of this investigation shall be reported by the Project Manager to the Contractor and shall indicate whether he/she will recommend for or against such extension to the County's representative. The performance of this investigation by the Project Manager shall not be construed in any way as direction or recommendation to the Contractor regarding scheduling of the work. Scheduling this work is the sole responsibility of the Contractor.
- .2 The Project Manager may, in his/her sole discretion, defer this recommendation to allow the accumulation of time extensions due to Work Authorizations into a periodic or final Change Order request.
- .3 Upon receiving the Project Manager's recommendation to the CPM Division Manager regarding the Contractor's request for a time extension, the Contractor may either withdraw its application for extension or request that it be scheduled for action by the Board of Supervisors, or the CPM Division Manager and County Administrative Officer. If the Board of Supervisors or CPM Division Manager and the County Administrative Officer disallow the request, there shall be no allowance made for the time during which the request was pending, and the Contractor shall remain obligated to complete the Work in the time specified.
- .4 If the Board of Supervisors or the CPM Division Manager and County Administrative Officer approves the time extension Change Order, the new Progress Schedule submitted by the Contractor and approved by the County shall be deemed to amend the original Progress Schedule approved by the County; thereafter, the amended Progress Schedule shall have the same force and effect as the originally approved Progress Schedule.
- .5 The revised progress schedule must be submitted within five (5) working days of when the Board of Supervisors or CPM Division Manager and the County Administrative Officer approves the change.
- .6 The Contractor agrees that the determination of the Board of Supervisors or the CPM Division Manager and the County Administrative Officer as to whether grounds for an extension exist, and if so, the duration of the



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extension shall be final and binding upon both County of Solano and Contractor, subject to other remedies available under the Contract.

8.3.6 DISCRETIONARY TIME EXTENSION FOR BEST INTEREST OF COUNTY

- .1 The County reserves the right to extend the Contract Time for completion of the Work if the Board of Supervisors determines that such extension is in the best interest of the County.
- .2 In the event that such discretionary extension is made at the request of the Contractor, the County shall have the right to charge to the Contractor all or any part, as the Board may deem proper, of the actual cost to the County for engineering, inspection, supervision, contract administration, incidental and other overhead expenses that accrue during period of such extension, and to deduct all or any portion of such amounts from the final payment for the Work.
- .3 In the event such extension is ordered over the objection of the Contractor, the Contractor shall be entitled to a Change Order adjusting the price paid to reflect the actual costs incurred by the Contractor as a direct and proximate result of the delay, upon his written application, accompanied by such verification of costs as the Project Manager requires. Only additional direct costs incurred at the site will be reimbursable by Change Order.

8.3.7 LIQUIDATED DAMAGES

- .1 If the Work is not completed by Contractor in the time specified in Article 3 – County herein or within any period of extension authorized pursuant to this Article, the Contractor acknowledges and admits that the County will suffer damage, and that it is impracticable and infeasible to fix the amount of actual damages. Therefore, it is agreed by and between the Contractor and the County that the Contractor shall pay to the County as fixed and liquidated damages, and not as a penalty, the sum specified in Section 00 73 00 – Supplementary Conditions for each calendar day of delay until the Work is completed and accepted, and that both the Contractor and the Contractor's surety shall be liable for the total amount, and that the County may deduct said sums from any monies due or that may become due to the Contractor. Liquidated Damages shall be the County's exclusive remedy for delay in lieu of all other types of damages.
- .2 This liquidated damages provision shall apply to all delays of any nature whatsoever, save and except only unavoidable delays approved by the Board of Supervisors or the CPM Division Manager and the County Administrative Officer pursuant to Section 8.3, or discretionary time extensions approved by the Board of Supervisors or the CPM Division Manager and the County Administrative Officer pursuant to Section 8.3.4.



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8.3.8 EXTENSION OF TIME NOT A WAIVER

- .1 Any extension of the Contract Time granted pursuant to this Article shall not constitute a waiver by the County, nor a release of the Contractor, from his obligations to perform this Contract in the Contract Time.
- .2 Granting of a time extension due to one circumstance on one request shall not constitute a granting by the County of an extension of time for any other circumstance or the same circumstance occurring at some other time and shall not be interpreted as a precedent for any other request for extension.

ARTICLE 9 **PAYMENTS AND COMPLETION**

9.1 CONTRACT SUM

9.1.1 The Contract Sum is stated in the Owner-Contractor Agreement and, including authorized adjustments to it, is the total amount payable by the County to the Contractor for the performance of the Work under the Contract Documents.

9.2 SCHEDULE OF VALUES

9.2.1 Before the first Application for Payment, and within fifteen working days of the Notice to Proceed, the Contractor shall submit to the Project Manager a Schedule of Values allocated to the various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Project Manager may require. This schedule, unless objected to by the Project Manager, shall be used only as a basis for the Contractor's Applications for Payment.

9.3 APPLICATIONS FOR PAYMENT

9.3.1 On or about the 20th day of the month following the month in which the work was performed, the Contractor shall submit to the Project Manager an itemized Application for Payment, notarized, supported by such data substantiating the Contractor's right to payment as the County or the Project Manager may require, and reflecting retainage, if any, as provided elsewhere in the Contract Documents. AIA Documents G702, Application and Certificate for Payment and G703/CMA, Continuation Sheet, or other substitute form supplied and required by the County shall be used. Payment is expressly conditioned upon submission by the Contractor of conditional waivers and release of lien rights upon progress payment as the County or the Project Manager may require. Waiver and Release forms must be submitted on forms provided or approved by the County of Solano. Copies of said forms shall comply with Civil Code § 8132 et seq.

9.3.2 Unless otherwise provided in the Contract Documents, payments may be made on account of materials or equipment not incorporated in the Work but delivered and suitably stored at the site and, if approved in advance by the County, payments may similarly be made for materials or equipment suitably stored at some other location agreed upon in writing. Payments for materials or equipment stored on or off the site shall be conditioned upon submission by the Contractor of bills of sale or such other procedures satisfactory to the County to establish the County's title to such materials or equipment or otherwise protect the County's interest, including applicable insurance and transportation to the site for those materials and equipment stored off the site.



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- 9.3.3 The Contractor warrants that title to all Work, materials and equipment covered by an Application for Payment will pass to the County either by incorporation in the construction or upon receipt of payment by the Contractor, whichever occurs first, free and clear of all liens, stop notices, claims, security interest or encumbrances, hereinafter referred to in this Article 9 as "liens"; and that no Work, materials or equipment covered by an Application for Payment will have been acquired by the Contractor, or by any other person performing Work at the site or furnishing materials and equipment for the Project, subject to an agreement under which an interest or an encumbrance is retained by the seller or otherwise imposed by the Contractor or such other person.
- 9.3.4 Progress Payments: The Contractor shall, on or before the first day of each month, make an estimate of the work performed during the preceding month and submit an itemized Application for Payment, notarized if required, supported by such data substantiating the Contractor's right to payment as the County or the Project Manager may require, including appropriate updates to the CPM Construction Schedule, and reflecting retainage, if any, as provided elsewhere in the Contract Documents. The Contractor will assemble the Application and forward it to the Project Manager within seven days for checking and approval. On or about the 20th day of the month following the month in which the work was performed, the County shall pay to the Contractor ninety-five (95%) percent of the value of said work in place, as checked and approved by the Project Manager. The balance of five (5%) percent of the estimate shall be retained by the County until the time of Notice of Completion is recorded. In lieu of the five (5%) percent retainage, the Contractor may substitute securities as provided in Article 9.3.5 below. The Contractor may apply to reduce said rate of retainage as set forth in Article 5 of the Owner-Contractor Agreement.
- .1 If the County does not pay the Contractor within thirty days after receipt of an undisputed and properly submitted payment request for a progress payment, excluding that portion of the final payment designated by the contract as retention earnings, then the County shall pay interest to the Contractor as provided by Public Contract Code § 20104.50. Said interest penalty is the sole recourse of Contractor and Contractor shall have no right to stop the Work until payment of the amount owing has been received, nor shall the Contract Time be extended, nor shall the Contract Sum be increased in any way, including by reason of any costs incurred by Contractor, except to the extent of said interest payment.
- .2 Pursuant to Public Contract Code § 7107, in the event of a dispute between the County and Contractor, the County may withhold from the final payment an amount not to exceed 150 percent of the disputed amount. Except as so provided, the County shall release the retention withheld within 35 days after the Notice of Completion, as "completion" is defined in Public Contract Code § 7107. In the event that retention payments are not made within the time periods required by Public Contract Code § 7107, the County may be subject to the interest provisions of Public Contract Code § 7107.
- 9.3.5 Security Substitutions and Escrow for Moneys Withheld to Ensure Contractor's Performance: Pursuant to Public Contract Code section 22300, the Contractor may deposit in an escrow, equivalent securities for any moneys withheld to ensure



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performance and have said moneys paid directly to Contractor, or, in the alternative, have the County deposit such moneys directly into an escrow. Upon the closing of any such escrow, Contractor shall pay to each subcontractor, not later than 20 days after receipt of the closing payment, the respective amount of interest earned, net of costs attributed to retention withheld from each subcontractor, on the amount of retention withheld to insure the performance of the Contractor. Any escrow established pursuant to this article shall be with a state or federally chartered bank, shall be at the sole expense of the Contractor, and shall be established using an escrow agreement in substantially the following form:



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ESCROW AGREEMENT FOR SECURITY DEPOSITS IN LIEU OF RETENTION

This Escrow Agreement is made and entered into by and between the County of Solano, (hereinafter called "County"), _____ (hereinafter called "Contractor"); and _____, a state or federally chartered bank in California, (hereinafter called "Escrow Agent").

For the consideration hereinafter set forth, the County, Contractor, and Escrow Agent agree as follows:

1. Pursuant to Section 22300 of the Public Contract Code of the State of California, Contractor has the option to deposit securities with Escrow Agent as a substitute for retention earnings required to be withheld by County pursuant to the Construction Contract entered into between the County and Contractor for _____ in the amount of \$ _____, and dated _____ (hereinafter referred to as the "Contract"). Alternatively, on written request of the contractor, the County shall make payments of the retention earnings directly to the Escrow Agent. When Contractor deposits the securities as a substitute for Contract earnings, the Escrow Agent shall notify the County within ten (10) days of the deposit. The market value of the securities at the time of the substitution, as valued by the County, shall be at least equal to the cumulative total cash amount then required to be withheld as retention under the terms of the contract between County and Contractor. If the County determines that the securities are not adequate it will notify Contractor and Escrow Agent, and Contractor shall deposit additional security as further determined by the County. Securities shall be held in the name of the County and shall designate the Contractor as the beneficial owner.
2. Upon the deposit of adequate securities, County shall make progress payments to the Contractor for such funds which otherwise would be withheld from progress payments pursuant to the Contract provisions, provided that the Escrow Agent holds securities in the form and amount specified above.
3. When the County, at Contractor's written request, makes payment of retentions earned directly to the Escrow Agent, the Escrow Agent shall hold them for the benefit of the contractor until such time as the escrow created under this contract is terminated. The Contractor may direct the investment of the payments into securities. All terms and conditions of this agreement and the rights and responsibilities of the parties shall be equally applicable and binding when the County pays the Escrow Agent directly.
4. Contractor shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the Escrow Account and all expenses of the County. The County, Contractor and Escrow Agent shall determine these expenses and payment terms.
5. The interest earned on the securities or the money market accounts held in escrow and all interest earned on that interest shall be for the sole account of Contractor and shall be subject to withdrawal by Contractor at any time and from time to time without notice to the County.



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6. Contractor shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from County to the Escrow Agent that County consents to the withdrawal of the amount sought to be withdrawn by Contractor.
7. The County shall have the right to draw upon the securities or any amount paid directly to Escrow Agent in the event of default by the Contractor. Upon seven (7) days written notice to the Escrow Agent from the County of the default, the Escrow Agent shall immediately convert the securities to cash and shall distribute the cash, including any amounts paid directly to Escrow Agent, as instructed by the County.
8. Upon receipt of written notification from the County certifying that the Contract is final and complete, and that the Contractor has complied with all requirements and procedures applicable to the Contract, Escrow Agent shall release to Contractor all securities and interest on deposit less escrow fees and charges of the Escrow Account. The escrow shall be closed immediately upon disbursement of all moneys and securities on deposit and payment of fees and charges.
9. Escrow Agent shall rely on the written notifications from the County and Contractor pursuant to Sections (5) to (8), inclusive of this Agreement and the County and Contractor shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of the securities and interest as set forth above.
10. The names of the persons who are authorized to give written notice or to receive written notice on behalf of the County and on behalf of Contractor in connection with the foregoing, and exemplars of their respective signatures are as follows:

On behalf of County:

Title: CPM Division Manager
 Name: Mark A. Hummel
 Signature: _____
 Address: 675 Texas Street, Suite 2500
 Fairfield, CA 94533

On behalf of Contractor:

Title: _____
 Name: _____
 Signature: _____
 Address: _____

On behalf of Escrow Agent:

Title: _____
 Name: _____
 Signature: _____
 Address: _____

At the time the Escrow Account is opened, the County and Contractor shall deliver to the Escrow Agent a fully executed counterpart of this Agreement.



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IN WITNESS WHEREOF, the parties have executed this Agreement by their proper officers on the date first set forth above.

On behalf of County:

Title: CPM Division Manager

Name: Mark A. Hummel

Signature: _____

Address: 675 Texas Street, Suite 2500
Fairfield, CA 94533

On behalf of Contractor:

Title: _____

Name: _____

Signature: _____

Address: _____

On behalf of Escrow Agent:

Title: _____

Name: _____

Signature: _____

Address: _____

9.3.6 **Itemized Breakdown:** The Contractor shall submit a financial breakdown of the work, itemized by crafts or sections as designated by the Project Manager. The Contractor's payment shall be based upon the monthly percentage of completion of these items.

9.3.7 **Lien Waivers:** The County or Project Manager will require the Contractor to submit, along with the progress payment request, notarized lien waivers from each subcontractor, materials or equipment supplier. Lien waivers shall comply with Civil Code § 8132 et seq. The aggregate sum of which shall reflect previous progress payments. Forms are available from County's Project Manager by request.

9.4 CERTIFICATES FOR PAYMENT

9.4.1 The Project Manager will, within seven days after the receipt of the Project Application for Payment, review the Project Application for Payment and either issue a Project Certificate for Payment to the County for such amounts as the Project Manager determines are properly due, or notify the Contractor in writing of the reasons for withholding a Certificate as provided in Subparagraph 9.6.1. The application for payment shall be made on AIA Documents G702 and G703 of the latest edition, in triplicate.

9.4.2 The issuance of a Project Certificate for Payment will constitute a representation by the Project Manager to the County that, based on the Project Manager's observations at the site as provided in Subparagraph 2.2.4 and the data comprising the Project Application for Payment, the Work has progressed to the point indicated; that, to the best of the Project Manager's knowledge, information and belief, the quality and timeliness of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion of the Work, to the results of any subsequent tests required by or performed under the Contract Documents, to minor deviations from the Contract Documents correctable prior to completion, and to any specific qualifications stated in the Certificate); and that the Contractor is entitled to payment in the amount certified. However, by issuing a Project Certificate for Payment, the Project Manager shall not thereby be deemed to represent that the Project Manager has made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, has reviewed the



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construction means, methods, techniques, sequences or procedures, or has made any examination to ascertain how or for what purpose the Contractor has used the monies previously paid on account of the Contract Sum.

9.5 PROGRESS PAYMENTS

9.5.1 After the Project Manager has issued a Project Certificate for Payment; the County shall make payment in the manner and within the time provided in the Contract Documents.

9.5.2 The Contractor shall promptly pay each Subcontractor upon receipt of payment from the County, out of the amount paid to the Contractor on account of such Subcontractor's Work, the amount to which Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Contract on account of such Subcontractor's Work. The Contractor shall, by an appropriate agreement with each Subcontractor, require each Subcontractor to make payments to their Sub-subcontractors in similar manner.

The Project Manager may on request, at the Project Manager's discretion, furnish to any Subcontractor, if practicable, information regarding the percentages of completion or the amounts applied for by the Contractor and the action taken by the Project Manager on account of Work done by such Subcontractor.

9.5.4 Neither the County nor the Project Manager shall have any obligation to pay or to see to the payment of any monies to any Subcontractor or Material Suppliers except as may otherwise be required by law.

9.5.5 Neither certification of a progress payment, delivery of a progress payment, nor partial or entire use or occupancy of the Project by the County, shall constitute an acceptance of any Work not in accordance with the Contract Documents.

9.6 PAYMENTS WITHHELD

9.6.1 The Project Manager may decline to certify payment and may withhold the Certificate in whole or in part to the extent necessary to reasonably protect the County, if, in the Project Manager's opinion, the Project Manager is unable to make representations to the County as provided in Subparagraph 9.4.2. If the Project Manager is unable to make representations to the County as provided in Subparagraph 9.4.2, and to certify payment in the amount of the Project Application, the Project Manager will notify the Contractor as provided in Subparagraph 9.4.1. If the Contractor and the Project Manager cannot agree on a revised amount, the Project Manager will promptly issue a Project Certificate for Payment for the amount for which the Project Manager is able to make such representations to the County. The Project Manager may also decline to certify payment or, because of subsequently discovered evidence or subsequent observations, the Project Manager may nullify the whole or any part of any Project Certificate for Payment previously issued to such extent as may be necessary, in the Project Manager's opinion, to protect the County from loss because of:

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, including claims by separate contractors;



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- .3 failure of the Contractor to make payments properly to Subcontractors, or for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the County or another contractor;
- .6 reasonable evidence that the Work will not be accomplished in compliance with the Contract Time;
- .7 persistent failures to carry out the Work in accordance with the Contract Documents; or
- .8 stop notice served upon the County.

9.6.2 When the grounds in Subparagraph 9.6.1 above are removed, payment shall be made for amounts withheld because of them.

9.7 SUBSTANTIAL COMPLETION

9.7.1 When the Contractor considers that the Work, or a designated portion of work, is substantially complete as defined in Subparagraph 8.1.3, the Contractor shall prepare for the Project Manager a list of items to be completed or corrected. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. When the Project Manager, on the basis of inspection, determines that the Work or designated portion thereof is substantially complete, the Project Manager will then prepare a Certificate of Substantial Completion of the Work, said time to be within the Contract time unless extended pursuant to paragraph 8.3 of the Work, shall state the responsibilities of the County and the Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall complete the items listed therein. AIA Document G704, Certificate of Substantial Completion, or other substitute form supplied and required by the County shall be used. The Certificate of Substantial Completion of the Work shall be submitted to the County and the Contractor for their written acceptance of the responsibilities assigned to them in such Certificate.

9.7.2 Upon Substantial Completion of the work or designated portion thereof, and upon application by the Contractor and certification by the Project Manager, the County shall make payment, reflecting adjustments in retainage, if any, for such Work or portion thereof as provided in the Contract Documents.

9.7.3 When the Project Manager, on the basis of inspections, determines that the Project or designated portion thereof is substantially complete, the Project Manager will then prepare a Certificate of Substantial Completion of the Project which shall establish the Date of Substantial Completion of the Project and fix the time within which the Contractor shall complete any uncompleted items of the Certificate of Substantial Completion of the Work.

9.8 FINAL COMPLETION

9.8.1 Contractor shall achieve Final Completion of the project within thirty (30) calendar days of project Substantial Completion.

9.8.2 Following the Project Manager's issuance of the Certificate of Substantial Completion of the Work or designated portion thereof, and the Contractor's



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completion of the Work, the Contractor shall forward to the Project Manager a written notice that the Work is ready for final inspection and acceptance.

9.8.3 Upon receipt, the Project Manager will promptly make such inspection. Final Completion shall be when the County accepts the work as fully completed and in accordance with the contract documents.

9.8.4 Contractor to provide all Closeout documents in order to achieve Final Completion. Refer to Paragraph 7.10 – Contract Closeout of Section 00 72 00 – General Conditions of the Construction Contract.

9.9 FINAL PAYMENT

Following the Project Manager's issuance of the Certificate of Substantial Completion of the Work or designated portion thereof, and the Contractor's completion of the Work, the Contractor shall forward to the Project Manager a written notice that the Work is ready for final inspection and acceptance and shall also forward to the Project Manager a final Application for Payment

9.9.1 When the Project Manager finds the Work acceptable under the Contract documents and the Contract fully performed, the Project Manager will issue a Project Certificate for Payment that will approve the final payment due the Contractor. This approval will constitute a representation that, to the best of the Project Manager's knowledge, information and belief, and on the basis of observations and inspections, the Work has been completed in accordance with the Terms and Conditions of the Contract Documents and that the entire balance found to be due the Contractor, and noted in said Certificate, is due and payable. The Project Manager's approval of said Project Certificate for Payment will constitute a further representation that the conditions precedent to the Contractor's being entitled to final payment as set forth in Subparagraph 9.8.2 have been fulfilled.

9.9.2 Neither the final payment nor the remaining retainage shall become due until the Contractor submits to the Project Manager (1) an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the County or the County's property might in any way be responsible, have been paid or otherwise satisfied, (2) consent of surety, if any, to final payment, and (3) other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the Contract, to the extent and in such form as may be designated by the County. AIA Documents G706, Contractor's Affidavit of Payment of Debts and Claims, and G706-a, Contractor's Affidavit Release of Liens, shall be used. If any Subcontractor refuses to furnish a release or waiver required by the County, the Contractor may furnish a bond satisfactory to the County to indemnify the County against any such lien. If any such lien remains unsatisfied, or no bond is in place, after all payments are made, the Contractor shall refund to the County all monies that the latter may be compelled to pay in discharging such lien.

9.9.3 If, after Substantial Completion of the Work, final completion is materially delayed through no fault of the Contractor or by the issuance of Change Orders affecting



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final completion, and the Project Manager so confirms, the County shall, upon application by the Contractor and certification by the Project Manager and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than the retainage stipulated in the Contract Documents, and if bonds have been furnished as provided in Paragraph 7.5, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Project Manager prior to certification of such payment. Such payment shall be made under the Terms and Conditions governing final payments, except that it shall not constitute a waiver of claims. AIA Documents G707, Consent of Surety Company to Final Payment or if appropriate G707-A, Consent of Surety to Reduction in or Partial Release of Retainage, shall be used.

- 9.9.4 The making of final payment shall not constitute a waiver of any claims by the County.
- 9.9.5 The acceptance of final payment shall, after the Date of Substantial Completion of the Project, constitute a waiver of all claims by the Contractor.
- 9.9.6 All provisions of this Agreement, including without limitation those establishing obligations and procedures, shall remain in full force and effect notwithstanding the making or acceptance of final payment.
- 9.9.7 Final payment will be released within 35 days after Notice of Completion is Filed with the County Recorder's Office.
- 9.9.8 Warranties required by the Contract Documents shall commence on the date after Final Completion.

ARTICLE 10 **PROTECTION OF PERSONS AND PROPERTY**

10.1 SAFETY PRECAUTIONS AND PROGRAMS

10.1.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work.

10.2 SAFETY OF PERSONS AND PROPERTY

10.2.1 The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:

- .1 all employees on the Work and all other persons who may be affected thereby;
- .2 all the work and all materials and equipment to be incorporated therein, whether in storage or off the site, under the care, custody or control of the Contractor or any of the Contractor's Subcontractors or Sub-subcontractors;
- .3 other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction; and
- .4 the work of the County or other separate contractors.



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- 10.2.2 The Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.
- 10.2.3 The Contractor shall erect and maintain, as required by existing conditions and the progress of the Work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying County's and users of adjacent facilities.
- 10.2.4 When the use or storage of explosives or other hazardous materials or equipment is necessary for the execution of the Work, the Contractor shall exercise reasonable care and shall carry on such activities under the supervision of properly qualified personnel.
- 10.2.5 The Contractor shall promptly remedy all damage or loss to any property referred to in Clauses 10.2.1.2. and 10.2.1.3 caused by the Contractor, any Subcontractor, any Sub-subcontractor, anyone directly or indirectly employed by any of them, or any one for whose acts any of them may be liable, and for which the Contractor is responsible under Clauses 10.2.1.2 and 10.2.1.3, except damage or loss attributable to the acts or omissions of the County, the Project Manager, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Paragraph 4.17.
- 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the County and the Project Manager.
- 10.2.7 The Contractor shall not load or permit any part of the Work to be loaded so as to endanger its safety.
- 10.3 EMERGENCIES
- 10.3.1 In any emergency affecting the safety of persons or property the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Any additional compensation or extension of time claimed by the Contractor on account of emergency work shall be determined as provided in Article 12 for Changes in the Work.



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ARTICLE 11
INSURANCE**11.1 CONTRACTOR'S INSURANCE**

Bidders' attention is directed to the insurance requirements below. It is highly recommended that Bidders confer with their respective insurance carriers or brokers to determine in advance of bid submission the availability of the insurance certificates and endorsements required below. A bidder, who is awarded a contract and thereafter fails to comply strictly with the insurance requirements, will be deemed to be in default of its obligations.

Contractor shall procure and maintain, for the duration of the contract, insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the Work by the Contractor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the Contractor's bid.

No later than five (5) calendar days following the Notice to Proceed (after Award of the Contract), and prior to execution of the Agreement for Construction by the County, the Contractor shall submit certificates of insurance, signed by an authorized agent of the insurer, attesting to insurance coverage of the Contractor as required by this Article.

11.1.1 Minimum Scope of Insurance: Coverage shall be at least as broad as:

- .1 Insurance Services Office Commercial General Liability coverage ("occurrence" form CG0001 1188) or Insurance Services Office form number GL 0002 (Ed. 1/73) covering Comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability.
- .2 Insurance Services Office Business Auto Coverage form number CA 0001 0187 covering Automobile Liability, code 1 "any auto".
- .3 Worker's Compensation insurance as required by the Labor Code of the State of California and Employers Liability insurance.

11.1.2 Minimum Limits of Insurance: Contractor shall maintain limits no less than:

- .1 General Liability: \$5,000,000 per occurrence for bodily injury, personal injury and property damage and \$10,000,000 general aggregate limit.
- .2 Automobile Liability: \$2,000,000 combined single limit per accident for bodily injury and property damage, including all owned, non-owned and hired automobiles, trucks, and trailers with combined single limit of not less than \$2,000,000 for bodily injury, \$2,000,000 for property damage, and with a \$2,000,000 policy limit.
- .3 Workers' Compensation and Employers Liability: Workers' compensation limits as required by Cal. Labor Code and Employers Liability limits of \$2,000,000 per accident.
- .4 Pollution Legal Liability: 1 Million per occurrence and \$2 Million aggregate limit.

If Contractor maintains higher limits than the minimums shown above, County is entitled to coverage for the higher limits maintained by Contractor. Any insurance proceeds in excess of the specified limits and coverage required, which are applicable to a given loss,



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shall be available to the County. No representation is made that the minimums shown above are sufficient to cover the indemnity or other obligations of the Contractor under this Contract.

11.1.3 Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the County. At the option of the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expense.

11.1.4 Other Insurance Provisions: The policies are to contain, or be endorsed to contain, the following provisions:

.1 General Liability and Automobile Liability Coverage.

a. The County of Solano, its officers, officials, employees, agents, including Consulting Project Managers while performing contract administration services, and volunteers are to be covered as insured's as respects: liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobile owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the County, its officers, officials, employees or volunteers.

b. The Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, agents, Consulting Project Managers, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, agents, Consulting Project Managers, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees, agents, Project Managers, Consulting Project Managers, or volunteers.

d. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

.2 Worker's Compensation and Employers Liability Coverage.

The insurer shall agree to waive all rights of subrogation against the County, its officers, officials, employees and volunteers for losses arising from work performed by the Contractor for the County.

.3 All Coverage:

a. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to the County.

b. Insurance shall contain a provision requiring the insurance carriers to waive their rights of subrogation against County and all additional



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insured, as well as other insurance carriers for the Work.

.4 **Builder's Risk (Course of Construction) Insurance:**

Contractor may submit evidence of Builder's Risk insurance in the form of Course of Construction coverage. Such coverage shall name the County as a loss payee as their interest may appear. In the alternative, at the option of the County, an Installation Floater may be acceptable. In such case, a Property Installation Floater shall be obtained that provides for the improvement, remodel, modification, alteration, conversion or adjustment to existing buildings, structures, processes, machinery and equipment. The Property Installation Floater shall provide property damage coverage for any building, structure, machinery or equipment damaged, impaired, broken, or destroyed during the performance of the Work, including during transit, installation, and testing at the County's site."

11.1.5 Acceptability of Insurers: Insurance is to be paid with insurers with a Best's rating of no less than A: VI.

11.1.6 Verification of Coverage: Contractor shall furnish the County with certificates of effecting coverage required by this clause. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates are to be received and approved by the County before work commences. The County reserves the right to require complete, certified copies of all required insurance policies, at any time.

11.1.7 Subcontractors: Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

Minimum Limits of Insurance: Subcontractors shall maintain limits no less than:

1. General Liability: \$2,000,000
2. Automobile Liability: \$2,000,000
3. Worker's Compensation and Employer's Liability: As required by the State of California Labor Code and Employers Liability

ARTICLE 12 CHANGES IN THE WORK

12.1 CHANGE ORDERS

12.1.1 Definition: A Change Order is a written order to the Contractor signed to show the approval of the Project Manager and the authorization of the County, issued after execution of the Contract, authorizing a change in the Work or an adjustment in the contract Sum or the Contract Time. The Contract Sum and the Contract Time shall be changed only by Change Order. A Change Order signed by the Contractor indicates the Contractor's agreement therewith, including the adjustment in the Contract Sum or the Contract Time, for full and final settlement of all costs (direct, indirect and overhead) related to the Work authorized by the Change Order.

12.1.2 The County, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletion or other revisions, the Contract Sum and Contract Time being adjusted accordingly. All



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such changes in the Work shall be authorized by Change Order and shall be performed under the applicable conditions of the Contract Documents.

- 12.1.3 Costs mean an itemized breakdown of all labor (by crafts), materials, sales taxes, equipment rentals, etc., for each portion of the Work which comprises the change order including any subcontractors itemized breakdown, plus not more than 15 percent (refer to specification Section 01 26 00 – Contract Modification Procedures for exact percentage amounts) to cover all profits, overhead and administration. The cost or credit to the County resulting from a change in the Work shall be determined in one or more of the following ways:
- .1 by mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation.
 - .2 by unit prices stated in the Contract Documents or subsequently agreed upon;
 - .3 by cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
 - .4 by the method provided in Subparagraph 12.1.4 and 12.1.5.
- 12.1.4 If none of the methods set forth in Clauses 12.1.3.1, 12.1.3.2, or 12.1.3.3 is agreed upon, the Contractor, provided that a written order signed by the County is received, shall promptly proceed with the Work involved. The cost of such Work shall then be determined by the Project Manager, on the basis of reasonable expenditures or savings of those performing the Work attributable to the change, including, in the case of an increase in the Contract Sum, a reasonable allowance for overhead and profit. In such case, and also under Clause 12.1.3.3 above, the Contractor shall keep and present, in such form as the County or the Project Manager may prescribe, an itemized accounting of actual cost together with appropriate supporting data for inclusion in a Change Order. Unless otherwise provided in the Contract Documents, cost shall be limited to the following: cost of materials, including sales tax and cost of delivery; cost of labor including social security, old age and unemployment insurance and fringe benefits required by agreement or custom; workers' or workmen's compensation insurance; bond premiums; rental value of equipment and machinery; and the additional costs of supervision and field personnel directly attributable to the change. Upon determination of cost by the Project Manager, payments to the Contractor may be made based on the Project Manager's approval of a Project Certificate for Payment. If the Contractor disputes the Project Manager's cost determination, the Contractor may initiate a claim in compliance with the claims and disputes resolution provisions of Paragraph 7.4.
- 12.1.5 The amount or credit to be allowed by the Contractor to the County, as confirmed by the Project Manager, for any deletion or change that results in a decrease in the Contract Sum will be the amount of the actual cost including reasonable overhead. When both additions and credits covering related Work or substitutions are involved in any one change, the allowance for overhead and profit shall be figured in the basis of the new increase, if any, with respect to that change.
- 12.1.6 Variation in Estimated Quantities: If unit prices are stated in the Contract Documents or subsequently agreed upon, and if the quantities originally contemplated as so changed in a proposed Change Order, that application or the



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agreed unit prices to the quantities of Work proposed will cause substantial inequity to the County or the Contractor, the applicable unit prices shall be equitably adjusted.

12.2 SITE CONDITIONS

12.2.1 If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect/Engineer before conditions are disturbed and in no event later than 10 days after first observance of the conditions. The Architect/Engineer will promptly investigate such conditions and, if the Architect/Engineer determines that the conditions differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect/Engineer determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect/Engineer shall promptly notify the Owner and Contractor in writing, stating the reasons. If either party disputes the Architect/Engineer's determination or recommendation, that party may proceed as provided in Article 7.

12.3 REQUEST FOR EQUITABLE ADJUSTMENT

12.3.1 If the Contractor considers a Request for Equitable Adjustment is justified for an increase in the Contract Time or Contract Sum, the Contractor shall promptly, upon first observance of the condition giving rise to the request, provide the Project Manager and County written notice of such condition and circumstance. This notice shall be given by the Contractor before proceeding to execute the Work, except in emergency endangering life or property in which case the Contractor shall proceed in accordance with Paragraph 10.3. No such request shall be valid unless so made. Any change in the Contract Time or Contract Sum resulting from such request for equitable adjustment shall be authorized by Change Order.

12.3.2 If the Contractor requests that additional cost or time is involved because of, but not limited to, (1) any written interpretation pursuant to Subparagraph 2.2.8, (2) any order by the County to stop the Work pursuant to Paragraph 3.3 where the Contractor was not at fault, or any such order by the Project Manager as the County's agent, (3) any written order for a minor change in the Work issued pursuant to Paragraph 12.4, the Contractor shall make such request for equitable adjustment as provided in Subparagraph 12.3.1.



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12.4 MINOR CHANGES IN THE WORK

The Project Manager will have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be enacted by written order issued through the Project Manager and shall be binding on the County and the Contractor. AIA Document G710, Engineer's Supplemental Instructions, or other substitute form supplied and required by the County shall be used. The Contractor shall carry out such written orders promptly.

ARTICLE 13 **UNCOVERING AND CORRECTION OF WORK**

13.1 UNCOVERING WORK

13.1.1 If any portion of the Work should be covered contrary to the request of the Project Manager, County, public authority having jurisdiction, or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the Project Manager, be uncovered for their observation and shall be replaced at the contractor's expense.

13.1.2 If any other portion of the Work has been covered which the Project Manager, County or public authority having jurisdiction has not specifically requested to observe prior to its being covered, the Project Manager may request to see such Work and it shall be uncovered by the contractor. If such Work be found in accordance with the Contract Documents, the cost of uncovering and replacement shall, by appropriate Change Order, be charges to the County. If such Work be found not in accordance with the Contract Documents, the Contractor shall pay such costs unless it be found that this condition was caused by the County or a separate contractor as provided in Article 6 in which event the County shall be responsible for the payment of such costs.

13.2 CORRECTION OF WORK

13.2.1 The Contractor shall promptly correct all Work rejected by the Project Manager as defective or as failing to conform to the Contract Documents whether observed before or after Substantial Completion of the Work and whether or not fabricated, installed or completed. The Contractor shall bear all costs of correcting such rejected Work, including compensation for the Project Manager's additional services made necessary thereby.

13.2.2 If, within one year after Final Completion or within such longer period of time as may be prescribed by the terms of any applicable special warranty required by the Contract Documents, any of the Work to be found to be defective or not in accordance with the Contract Documents, the Contractor shall correct it promptly after receipt of a written notice from the County to do so unless the County had notice of the defect and had previously given the Contractor a written acceptance of such defective condition. This obligation shall survive both final payment for the Work or designated portion thereof and termination of the Contract. The County shall give such notice promptly after discovery of the condition.



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- 13.2.3 The Contractor shall, at his sole expense, remove from the site all portions of the Work that are defective or nonconforming and which have not been corrected under Subparagraphs 4.5.1, 13.2.1 and 13.2.2, unless removal is waived by the County.
- 13.2.4 If the Contractor fails to correct defective or nonconforming Work as provided in Subparagraphs 4.5.1, 13.2.1 and 13.2.2, the County may correct it in accordance with Paragraph 3.4.
- 13.2.5 If the Contractor does not proceed with the correction of such defective or nonconforming Work within a reasonable time fixed by written notice from the Project Manager, the County may remove it and may store the materials or equipment at the expense of the Contractor. If the Contractor does not pay the cost of such removal and storage within ten days thereafter, the County may, upon ten additional days' written notice, sell such Work at auction or at private sale and shall account for the proceeds thereof, after deducting all the costs that should have been borne by the Contractor, including compensation for the Project Manager, or other Professional's additional services made necessary thereby. If such proceeds of sale do not cover all costs, which the Contractor should have borne, the difference shall be charged to the Contractor and an appropriate Change Order shall be issued. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the County.
- 13.2.6 The Contractor shall bear the cost of making good all work of the County or separate contractors destroyed or damaged by such correction or removal.
- 13.2.7 Nothing contained in this Paragraph 13.2 shall be construed to establish a period of limitation with respect to any other obligation, which the Contractor might have under the Contract Documents, including Paragraph 4.5 hereof. The establishment of the time periods noted in Subparagraph 13.2.2, or such longer period of time as may be prescribed by law or by the terms of any warranty required by the Contract Documents, relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the Contractor's obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.
- 13.3 ACCEPTANCE OF DEFECTIVE OR NONCONFORMING WORK
- 13.3.1 If the County prefers to accept defective or nonconforming Work, the County may do so instead of requiring its removal and correction, in which case a Change Order will be issued to reflect a reduction in the Contract Sum where appropriate and equitable. Such adjustment shall be affected whether or not final payment has been made.



ARTICLE 14
TERMINATION OF THE CONTRACT

14.1 TERMINATION BY THE CONTRACTOR

14.1.1 If the Work is stopped for a period of thirty days under an order of any court or other public authority having jurisdiction, or as a result of an act of government such as a declaration of a national emergency making materials unavailable, through no act or fault of Contractor or a Subcontractor or any agents or employees or any other persons performing any of the Work under a contract with the Contractor, then the Contractor may, upon thirty additional days' written notice to the County and the Project Manager, terminate the Contract and recover from the County payment for all work executed and for any proven loss sustained upon any materials, equipment, tools, construction equipment and machinery, including reasonable profit.

14.2 TERMINATION BY THE COUNTY

14.2.1 If the Contractor is adjudged bankrupt, or makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of the Contractor's insolvency, or stop notices are served upon the County, or if the Contractor persistently or repeatedly refuses or fails, except in cases for which extension of time is provided, to supply enough properly skilled workers or proper materials, or fails to make prompt payment to Subcontractors or for materials or labor for which the Contractor has been paid by the County, or persistently disregards laws, ordinances, rules, regulations or orders of having any public authority having jurisdiction, or otherwise is guilty of a substantial violation of a provision of the Contract Documents, and fails after written notice to commence and continue correction of such default, neglect or violation with diligence and promptness, the County upon certification by the Project Manager that sufficient cause exists to justify such action, may, after an additional written notice and without prejudice to any other remedy the County may have, terminate the Contract and take possession of all materials and equipment owned by the Contractor and may finish the Work by whatever methods the County may deem expedient. In such case the Contractor shall not be entitled to receive any further payment until the Work is finished.

14.2.2 If the unpaid balance of the Contract Sum exceeds the costs of finishing the Work, including compensation for the Project Manager's and Engineer's additional services made necessary thereby, Contractor will only be paid for his actual unpaid costs from such excess. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the County. The amount to be paid to the Contractor or to the County, as the case may be, shall be certified by the Project Manager, upon application, in the manner provided in Paragraph 9.4 and this obligation for payment shall survive the termination of the Contract.

ARTICLE 15
ADDITIONAL INSTRUCTIONS

15.1 SUBSTITUTION OF MATERIALS:

15.1.1 When a specific manufacturer, trade name or material is specified, or indicated, it is to establish a standard of quality and shall not be construed as limiting



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competition. If the Contractor desires to use material other than that specified, he shall request approval of such substitution, in writing, to the Project Manager. Requests for substitutions shall be in the hands of the Project Manager no later than fifteen (15) calendar days after the Notice to Proceed.

15.1.2 Submittals for approval of substitute materials shall contain sufficient information, descriptive brochures, drawings, samples or other data as is necessary to provide direct comparison to the specified materials. Each submittal shall be well marked and identified as to types and kind of the items being submitted for approval. County Project Manager will provide a "Substitution Request" form for Contractor to completely fill-out. It is the sole responsibility of the Contractor to submit complete descriptive and technical information so the Project Manager can make proper appraisal. Lack of proper information will be sufficient cause for rejection. Reference to catalogs that the Architect/Engineer may or may not have will not be acceptable.

The Engineer's review for approval is for quality of visual appearance. It is the Contractor's responsibility to confirm and correlate all quantities and dimensions and coordinate with all trades whose work may be affected by the requested substitution.

Contractor is responsible for all costs incurred by County's agent(s) to perform any additional research to validate the proposed substitution's suitability for the Project and any additional construction costs and markups due to changes or additional impacts caused by said substitution on other elements or parts of Project.

15.2 REFERENCE TO STANDARDS:

15.2.1 Reference to known standards shall mean and intend the latest edition or amendment published prior to date of these Specifications, unless specifically indicated otherwise, and to such portions of it that relate and apply directly to the material or installation called for on the project.

15.2.2 Where material is specified solely by reference to standard specifications, the Contractor shall, if requested by the Project Manager, submit to the Project Manager for his approval, data on all such material proposed to be incorporated into the Work of the Contractor listing the name and address of the vendor, the manufacturer or producer, and the trade or brand names of such materials.

15.3 SPECIFICATIONS:

15.3.1 The Specifications are organized into Divisions, Sections, and Trade headings based on the Construction Specifications Institute's Master Format – 2004 Edition, 48 – Division format/numbering system. This organization shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of the Work to be performed by any trade. The Contractor shall be responsible for examining all sections of the Specifications for interrelated items of the Work, and for furnishing each item identified or specified.

15.3.2 No responsibility will be assumed by the County, Architect/Engineer or the Project Manager for omissions or duplications by the Contractor in the completion of the Contract due to any segregation of work and materials operate to make the Project Manager an arbiter in defining the limits to the agreements between the Contractor and his subcontractors or suppliers.



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- 15.3.3 The misplacement, addition or omission of any letter, word or punctuation mark shall in no way damage the true spirit, intent or meaning of these Specifications.
- 15.3.4 The words “shown”, “indicated”, “noted”, “scheduled” or words of that effect shall be understood to mean that reference is made to the Drawings accompanying these Specifications.
- 15.3.5 Where reference herein is made to colors or finishes “as selected”, the reference is to the Project Manager with concurrence by the County.
- 15.4 **APPROVED APPLICATORS:**
Where specific instruction in these Specifications requires that a particular product and/or materials be installed and/or applied by an “approved applicator” of the manufacturer, it shall be the Contractor’s responsibility to ensure that any subcontractors used for such work be approved applicators.
- 15.5 **DELIVERY AND STORAGE OF MATERIALS:**
- 15.5.1 Contractor shall deliver all manufactured materials in the original packages, containers or bundles (with the seals intact) bearing the name or identification mark of all manufacturers.
- 15.5.2 Contractor shall deliver fabrications in as large assemblies as practicable and where specified to be shop-primed or shop-finished; they shall be packaged or crated as required to preserve such priming or finish intact and free from abrasion.
- 15.5.3 Contractor shall store all materials in such manner as necessary to properly protect it from damage, as materials or equipment damage by handling, weather, dirt or from any other cause will not be acceptable.
- 15.5.4 Contractor shall store materials so as to cause no obstructions which includes storing off sidewalks, roadways, and underground services. The Contractor shall be responsible for protecting all material and equipment furnished under the Contract.
- 15.6 **WORKMANSHIP:**
- 15.6.1 Where not more specifically described in any of the various Sections of these Specifications, workmanship shall conform to all of the methods and operations of industry standards and accepted practices of the trade or trades involved, and shall include all items of fabrication, construction, or installation regularly furnished or required for completion (including any finish), and for successful operation as intended.
- 15.6.2 All work shall be executed by mechanics skilled in their respective lines of work.
- 15.6.3 When completed, all parts shall have been durably and substantially built and shall present a neat, workmanlike appearance.



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15.7 FINAL GUARANTEE:

15.7.1 The Contractor shall be held responsible for, and must make good any defects through faulty, improper, or inferior workmanship or materials, arising or discovered in any part of his work or structure, piping and appurtenances, one (1) year after Final Completion, or within such longer period of time as may be prescribed by the terms of any applicable special warranty required by the Contract Documents. The Warranty Bond, furnished by the Contractor, shall cover such defects and protect the County against them.

15.7.2 Contractor guarantees that all materials and workmanship shall conform to the Contract Documents and agrees to replace, at his sole cost and expense, and in conformity with the Contract Documents, any defective material and any and all work defectively or improperly performed or installed.

15.7.3 The Contractor shall, within a reasonable time, but in no case longer than (10) calendar days after receipt of written notice thereof, commence to repair and/or replace any defect in materials or workmanship which may develop during said one-year period, and any damage to adjacent materials resulting from the repairing or replacing of such defects, at its own expense and without cost to County.

15.7.4 In the event Contractor fails to remedy any such defect within a reasonable time, which shall not in any case be longer than thirty (30) days after receipt of such written notice (unless Contractor has commenced the repair and is diligently pursuing the repair to completion), County may proceed to have such defects remedied at Contractor's expense and Contractor shall pay the costs and charges incurred thereby. Neither acceptance nor payment nor any provision in these documents shall be deemed to be a waiver by County to relieve Contractor of any responsibility under this Contract.

15.8 HOURS OF WORK:

15.8.1 Eight (8) hours of labor shall constitute a legal day's work upon all work done hereunder, and it is expressly stipulated that no worker employed at any time by the Contractor, or by a subcontractor under this Contract, upon the work, shall be required or permitted to work thereon more than eight (8) hours in any one (1) calendar day and forty (40) hours in any one (1) calendar week, except as provided in Section 1810-1815 inclusive, of the Labor Code of the State of California, all the provisions whereof are deemed to be incorporated herein as if fully set out; and it is further expressly stipulated that for each and every violation of said last named stipulation, said contractor shall forfeit, as a penalty to the County, twenty-five dollars (\$25.00) for each worker employed by the Contractor in the execution of this Contract, for each calendar day during which said worker is required or permitted to labor more than eight (8) hours in any one (1) calendar day and forty (40) hours in any one (1) calendar week in violation of the provisions of said section of the Labor Code.

15.8.2 The Contractor and each subcontractor shall also keep or cause to be kept, an accurate record showing the names and actual hours worked each calendar day and each calendar week by each worker employed by him in connection with the work contemplated by this Agreement, which record shall be open at all reasonable



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hours to the inspection of the County or its officer or agents, and to the Division of Labor Law Enforcement of the Department of Industrial Relations, its deputies and agents.

15.8.3 Notwithstanding the above stipulations, pursuant to Section 1815 of the Labor Code, work performed by employees of contractors in excess of eight (8) hours per day and forty (40) hours during any one week shall be permitted upon the project upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1 ½) times the basic rate of pay.

15.9 WAGE RATES:

15.9.1 Pursuant to Section 1770-1780 of the Labor Code of the State of California, the Director of the Department of Industrial Relations has determined the general prevailing rate of per diem wages and rates for legal holidays and overtime in the locality in which this work is to be performed, for each craft or type of worker or mechanic needed to execute this contract. Said wage rates pursuant to Section 1773.2.

15.9.2 It shall be mandatory upon the Contractor, and upon any subcontractor under him to pay not less than the said specified rates to all laborers, worker, and mechanics employed by them in the execution of the Contract, and to pay all laborers, workers and mechanics not less often than once weekly. Contractor shall post a copy of the determination of prevailing wages at the job site. The Contractor shall require all subcontractors to comply with Sections 1770-1780 of the Labor Code of the State of California and shall insert into every subcontract the requirements contained therein.

15.9.3 It is hereby further agreed that the Contractor shall forfeit to the County, as a penalty, twenty-five dollars (\$25.00) for each laborer, worker, or mechanic employed for each calendar day or portion thereof, who is paid less than the said stipulated rates for any work done under the Contract, by him or by any subcontractor under him. The difference between said stipulated rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than said stipulated rate shall be paid to each worker by the Contractor. The Contractor, and each subcontractor, shall keep or cause to be kept an accurate record showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed by him or her in connection with the public work. The records shall be open at all reasonable hours to the inspection of the County, to its officers and agents, and to the Division of Labor Law Enforcement of the State Department of Industrial Relations, its deputies and agents.

15.9.4 In case it becomes necessary for the Contractor or any subcontractor to employ on the work under this Contract any person in a trade or occupation (except executive, supervisory, administrative, clerical or other non-manual workers as such) for which no minimum wage rate is specified, the Contractor shall immediately notify the County who will promptly thereafter determine the prevailing rate for such additional trade or occupation from the time of the initial employment of the person affected and during the continuance of such employment.



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15.10 APPLICATION OF HIGHEST STANDARDS AND REQUIREMENTS:

Whenever two or more standards or requirements appear in these General Conditions or in any other part of the Contract Documents that form the Contract, the highest standard or requirement shall be applied and followed in the performance under this Contract.

15.11 NONDISCRIMINATION IN EMPLOYMENT:

15.11.1 Federal and State Laws prohibit discrimination in employment. The California Fair Employment Practices Act prohibits discrimination in employment on the basis of race, religion, color, sex, physical handicap, medical condition, marital status, age, national origin or ancestry, and applies to all employers, employment agencies and labor organizations.

15.11.2 Title VII of the Federal 1964 Civil Rights Act (42 U.S.C. Section 2000e – 2000e – 17) prohibits employment discrimination on the basis of race, color, sex, religion, or national origin, and applies to all employers that employ at least 15 workers during each working day in each of 20 or more calendars weeks in the current or preceding year.

15.11.3 In addition to these two laws of general application, there are other Federal and State laws that prohibit employment discrimination in particular cases.

15.11.4 The County of Solano is an Affirmative Action Employer and expects all of its contractors and suppliers to familiarize themselves with, and comply with, all applicable laws relating to employment discrimination.

15.11.5 To the extent required by law, the Contractor shall meet all requirements of law relating to the participation of minority, women, and disabled veteran business enterprise contracting goals, and shall comply with Public Contract Code § 10115 et seq. and all applicable regulations. Contractor further agrees that, when required, Contractor will ensure compliance by all subcontractors and will complete all forms required by all agencies exercising jurisdiction over the project.

15.12 APPRENTICES

15.12.1 Pursuant to Sections 1770-1780 of the Labor Code of the State of California, the Director of the Department of Industrial Relations has determined the general prevailing rate of per diem wages in the locality for each craft or type of worker needed to execute the work. Said wage rates pursuant to Section 1773.2 of the Labor Code.

15.12.2 Pursuant to Section 1775 of the Labor Code of the State of California, nothing in this chapter shall prevent the employment of properly registered apprentices upon public works.

15.12.3 Every such apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade at which he is employed and shall be employed only at the work of the craft or trade to which he/she is registered.



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- 15.12.4 Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards and written apprentice agreements under Chapter 4 (commencing at Section 3070), Division 3, of the Labor Code, are eligible to be employed on public works. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which he/she is training.
- 15.13 PROVISIONS REQUIRED BY LAW DEEMED INSERTED
Every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted, and this contract shall be read and enforced as though it were included, and if through mistake or otherwise any provision is not inserted or is not correctly inserted, upon application of either party the contract shall be amended to make the insertion or correction.
- 15.14 DRUG FREE WORKPLACE CERTIFICATION
- 15.14.1 The Contractor shall comply with Government Code Section 8355 in matters relating to providing a drug-free workplace.
- 15.14.2 The Contractor shall publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code section 8355(a).
- 15.14.3 The Contractor shall establish a Drug-Free Awareness Program as required by Government Code section 8355(b), to inform employees about all of the following:
- .1 The dangers of drug abuse in the workplace,
 - .2 The person's organization's policy in maintaining a drug-free workplace,
 - .3 Any available counseling, rehabilitation and employee assistance programs,
 - .4 Penalties that may be imposed upon employees for drug abuse violations.
- 15.14.4 Provide as required by Government Code 8355©, that everyone who works on the proposed contract:
- .1 Will receive a copy of the company's drug-free policy statement, and
 - .2 Will agree to abide by the terms of the company's statement as a condition of employment on the contract.
- 15.15 QUALITY CONTROL AND QUALITY ASSURANCE
- 15.15.1 Quality assurance includes the planned and systematic activities implemented in a quality system so that quality requirements for a product or service will be fulfilled.
- 15.15.2 Quality control includes inspections and tests and related actions including reports, performed by independent agencies, governing authorities, and the Contractor. They do not include Contract enforcement activities performed by the Project Manager, County Inspector or the Architect/Engineer.
- 15.15.3 Inspection and testing services are required to verify compliance with requirements specified or indicated. These services do not relieve the



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Contractor of responsibility for compliance with Contract Document requirements.

15.15.4 Quality Control Responsibilities:

- .1 The Contractor shall provide inspections, tests and similar quality control services, specified in individual Specification Sections and required by governing authorities, except where they are specifically indicated to be the County's responsibility, or are provided by another identified entity. Costs for these services shall be included in the Contract Sum. The Contractor shall employ and pay an independent agency, to perform specified quality control services, and quality control services required by laws, rules, regulations, and regulatory authorities.
- .2 The County will engage and pay for the services of an independent agency to perform inspections and tests specified as the County's responsibility. Contractor shall not employ the entity engaged by the County, unless otherwise agreed in writing with the County.
- .3 Retesting: The Contractor is responsible for retesting (including costs) where results of required inspections, tests or similar services prove unsatisfactory and do not indicate compliance with Contract Document requirements, regardless of whether the original test was the Contractor's responsibility.
- .4 Contractor to provide the agency with a preliminary design mix proposed for use for materials mixes that require control by the testing agency.
- .5 Duties of Testing Agency: The independent testing agency engaged by the Contractor to perform inspections, sampling and testing of materials and construction specified in individual Specification Sections and by applicable laws, rules, and regulations; shall cooperate with the Project Manager, County, Inspector and the Architect/Engineer and Contractor in performance of its duties and shall provide qualified personnel to perform required inspections and tests. The agency shall notify the Project Manager, Architect/Engineer, and Contractor promptly of irregularities or deficiencies observed in the Work during performance of its services. The agency is not authorized to release, revoke, alter or enlarge requirements of the Contract Documents, or approve of or accept any portion of the Work. The agency shall not perform any duties of the Contractor.
- .6 Coordination: The Contractor and each agency engaged to perform inspections, tests and similar services shall coordinate the sequence of activities to accommodate required services with a minimum of delay. In addition, the Contractor and each agency shall coordinate activities to avoid the necessity of removing and replacing construction to accommodate inspections and tests. The Contractor is responsible for scheduling times for inspections, tests, taking samples and similar activities.

15.15.5 Quality Control Submittals: County's and Contractor's independent testing agencies shall submit a certified written report of each inspection, test or similar service, to the Project Manager, the Architect/Engineer and the Contractor, in duplicate. Submit additional copies of each written report directly to the governing authority, when the authority so directs.



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- 15.15.6 Testing Agency Qualifications: Engage inspection and testing service agencies, including independent testing laboratories, which are pre-qualified as complying with "Recommended Requirements for Independent Laboratory Qualification" by the American Council of Independent Laboratories, and which specialize in the types of inspections and tests to be performed. Each independent inspection and testing agency engaged on the Project shall be authorized by authorities having jurisdiction to operate in the State in which the Project is located.
- 15.15.7 The Contractor shall be responsible for, and shall pay for, all off-site and on-site tests except tests on the following materials/installations: concrete, grout, high-strength bolting, structural welding (shop and field), reinforcing steel, bolts installed in concrete, and expansion and epoxy anchors.
- 15.15.8 The Contractor shall notify the Project Manager in writing (3) three working days in advance of time for the above-named test s.
- 15.15.9 Submit field mock-ups a minimum of fourteen (14) days prior to installation of work. No installation or application until the field mock-up is approved. Construct field mock-ups in location as approved by the County representative. County and Architect/Engineer representatives will review the field mock-ups for conformance with the requirements of the contract documents. Modify or replace field mock-up until mock-up is approved.
- 15.15.10 Submit qualifications of Manufacturer's Field Observer to the County thirty (30) days in advance of required observations. Observer subject to approval of the County. Observer to report observations and site decisions or instructions given to applicators or installers that are supplemental or contrary to manufacturers' written instructions.
- 15.15.11 Contractor shall participate in and make work available for First-Delivery Inspections, First Equipment in Place inspections, Benchmark Inspections, Closure inspections, Start-up and Turnover Inspections.
- 15.15.12 Contractor Responsibilities: Appoint a Responsible Party to participate in the QA and QC activities identified, including providing immediate response and correction of deficiencies. Participate in QA/QC meetings including kick-off and pre-installation meetings.
- 15.15.13 Upon completion of inspection, testing, sample-taking and similar services, repair damaged construction and restore substrates and finishes to eliminate deficiencies, including deficiencies in visual qualities of exposed finishes. Comply with Contract Document requirements per "Cutting and Patching." Protect construction exposed by or for quality control service activities and protect repaired construction. Repair and protection are the Contractor's responsibility, regardless of the assignment of responsibility for inspection, testing or similar services.

15.16 PROJECT SECURITY PROCEDURES

- 15.16.1 Within 5 calendar days from Notice to Proceed, Contractor shall provide a



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'priority' list of personnel who will be working on Project site upon commencement of work. Lists of other personnel will follow based on the Project Schedule. Contractor shall provide one-week notice of changes or additions in personnel as such changes or additions occur.

- 15.16.2 All contractors are required to have assigned County badge and worn at all times. Contractor to provide names for all Contractor's Employees anticipated to be working on this project. Badge process takes approximately 3-5 working days.
- 15.16.3 Background checks **may be** required for certain contractors that will access to secured spaces. If required, Contractor to provide certain information from their employees for verification against the Department of Justice and Department Database no later than five calendar days from Notice to Proceed. Background checks take approximately 3-4 weeks.
- 15.16.4 The Contractor shall meet with the Project Manager prior to beginning any work on-site to review the applicable security procedures and develop a Security Requirements Plan that can be used to communicate the Project Security Procedures to all personnel that will be on-site or who will visit site during the construction of this Project. The Contractor will be required to designate one of their on-site personnel to represent the Contractor, monitor and implement the Security Requirements Plan.
- 15.16.5 If County deem it necessary to declare a "State of Emergency", work may be curtailed or terminated for the duration of said emergency. Contractor shall be aware that events of this nature are considered potentially everyday occurrences on project sites of this nature. Requests for additional compensation for occurrences of the aforementioned type will not be considered.
- 15.16.6 Personal search is not normally required. However, the County reserves the right to search workers when there is probable cause, as determined by the County.
- 15.16.7 The Solano County has a no hostage policy and hostages will not be recognized for bargaining purposes. The Contractor is to communicate this to all personnel that will come on sit e.
- 15.16.8 Cameras and other Audio or Visual Recording Devices may be allowed with written approval and arrangements with Project Manager. Protocol will be discussed with Contractor at Pre-construction meeting.

15.17 WARRANTY REQUIREMENTS

- 15.17.1 Related Damages and Losses: When correcting warranted Work that has failed, remove and replace other Work that has been damaged as a result of such failure or that must be removed and replaced to provide access for correction of warranted Work.
- 15.17.2 Reinstatement of Warranty: When Work covered by a warranty has failed and



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been corrected by replacement or rebuilding, reinstate the warranty by written endorsement. The reinstated warranty shall be equal to the original warranty with an equitable adjustment for depreciation.

- 15.17.3 Replacement Cost: Upon determination that Work covered by a warranty has failed, replace or rebuild the Work to an acceptable condition complying with requirements of Contract Documents. The Contractor is responsible for the cost of replacing or rebuilding defective Work regardless of whether the County has benefited from use of the Work through a portion of its anticipated useful service life.
- 15.17.4 County's Recourse: Written warranties made to the County are in addition to implied warranties, and shall not limit the duties, obligations, right and remedies otherwise available under the law, nor shall warranty periods be interpreted as limitations on time in which the County can enforce such other duties, obligations, rights, or remedies.
- .1 Rejection of Warranties: The County reserves the right to reject warranties and to limit selections to products with warranties not in conflict with requirements of the Contract Documents.
- 15.17.5 The County reserves the right to refuse to accept Work for the Project where a special warranty, certification, or similar commitment is required on such Work or part of the Work, until evidence is presented that entities required to counter-sign such commitments are willing to do so.

END OF SECTION 00 72 00



SECTION 00 73 00 - SUPPLEMENTARY CONDITIONS

PART 1 – GENERAL

1.1 INSTRUCTIONS

- A. Requirements included herein supplement Section 00 72 00 – General Conditions of the Contract for Construction.
- B. If any provision of this Section should conflict with any other provision of the Contract Documents, this section shall control.

1.2 ARTICLE 2 – ADMINISTRATION OF THE CONTRACT

PARAGRAPH - 2.2 THE PROJECT MANAGER

Add the following description to this paragraph to define the role of the Construction Manager and the interchangeable function and role with the Project Manager:

The term 'Project Manager' and 'Construction Manager' where used will mean the County's Capital Project's Management staff who coordinates and receives all communications from Contractors and assists in the administration of the Contract.

1.3 ARTICLE 2 – ADMINISTRATION OF THE CONTRACT

PARAGRAPH - 2.2 THE PROJECT MANAGER

REVISE the following to Subparagraph 2.2.13:

2.2.13 The Project Manager will conduct inspections to determine the date of Substantial Completion and Final Completion, and will receive and forward to the County, for the County's review, written warranties and related documents required by the Contract and assembled by the Contractor. The Project Manager will issue a final Project Certificate for Payment upon compliance with the requirements of Paragraph 9.8. The Project Manager will monitor all warranties for a period of one year after **Notice of Completion**, unless otherwise specified as a longer term.

1.4 ARTICLE 7 - MISCELLANEOUS PROVISIONS

PARAGRAPH - 7.10.17 Warranty Bond

Add the following Subparagraph to 7.10.17:

7.10.17.2 Guarantee/Warranty and Warranty Bond should cover 2 years for labor, material, and equipment installed.

1.5 ARTICLE 8 – TIME

PARAGRAPH 8.1 – DEFINITIONS

Add the following to Subparagraph 8.1:

8.1.6. **CONTRACT TIME:** Refer to Section 01 11 00 – Summary of Work, under Projected Construction Schedule.

1.6 ARTICLE 8 – TIME

PARAGRAPH 8.3.7 – LIQUIDATED DAMAGES

REVISE the following Clauses to Subparagraph 8.3.7:

8.3.7.1 The Contractor shall pay the County the sum of \$2,000 per calendar day for every calendar day delay in meeting the Final Completion and finishing the work under this Contract beyond the stipulated contract time.



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- 1.7 ARTICLE 9 – PAYMENTS AND COMPLETION
PARAGRAPH 9.3 – APPLICATIONS FOR PAYMENT
REVISE the following Clauses to Subparagraph 9.3.1:
9.3.1 On or about the **15th day** of the month following the month in which the work was performed, the Contractor shall submit to the Project Manager an itemized Application for Payment, notarized, supported by such data substantiating the Contractor's right to payment as the County or the Project Manager may require, and reflecting retainage, if any, as provided elsewhere in the Contract Documents. AIA Documents G702, Application and Certificate for Payment and G703/CMA, Continuation Sheet, or other substitute form supplied and required by the County shall be used. Payment is expressly conditioned upon submission by the Contractor of conditional waivers and release of lien rights upon progress payment as the County or the Project Manager may require. Waiver and Release forms must be submitted on forms provided or approved by the County of Solano. Copies of said forms shall comply with Civil Code § 8132 et seq.
- 1.8 ARTICLE 9 – PAYMENTS AND COMPLETION
PARAGRAPH 9.5 – PROGRESS PAYMENTS
Add the following to Subparagraph 9.5:
9.5.6 Progress Payment shall include updated construction schedule and Project Manager's review of updates to field set of drawings (As-Builts).
- 1.9 ARTICLE 9 – PAYMENTS AND COMPLETION
PARAGRAPH 9.9 – FINAL PAYMENT
REVISE the following to Subparagraph 9.9.8:
9.9.8 Warranties required by the Contract Documents shall commence on the date after **Notice of Completion**.
- 1.10 ARTICLE 10 – PROTECTION OF PERSONS AND PROPERTY
PARAGRAPH 10.2 – SAFETY OF PERSONS AND PROPERTY
Add the following to Subparagraph 10.2:
10.2.8 All contractors shall wear personal protective equipment (PPE) boots, gloves, safety vest, safety glasses, hard hat, and all required PPE on the job. **NO EXCEPTIONS!**
10.2.9 Each contractor shall submit, for review by the County, a site-specific Safety Program and Illness & Injury Prevention Program which address all the elements of the safety plan as they will be implemented by the contractor, sub-contractor, vendor, and suppliers.”
- 1.11 ARTICLE 13 – UNCOVERING AND CORRECTION OF WORK
PARAGRAPH 13.2 – CORRECTION OF WORK
REVISE the following to Subparagraph 13.2.2:
13.2.2 If, within one year after **Notice of Completion** or within such longer period of time as may be prescribed by the terms of any applicable special warranty required by the Contract Documents, any of the Work to be found to be defective or not in accordance with the Contract Documents, the Contractor shall correct it promptly after receipt of a written notice from the County to do so unless the County had notice of the defect and had previously given the Contractor a written acceptance of such defective condition. This obligation shall survive both final payment for the Work or



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designated portion thereof and termination of the Contract. The County shall give such notice promptly after discovery of the condition.

1.12 ARTICLE 15 – ADDITIONAL INSTRUCTIONS

PARAGRAPH 15.7 – FINAL GUARANTEE

REVISED the following to Subparagraph 15.7.1:

15.7.1 The Contractor shall be held responsible for, and must make good any defects through faulty, improper, or inferior workmanship or materials, arising or discovered in any part of his work or structure, piping and appurtenances, two (2) years after **Notice of Completion**, or within such longer period of time as may be prescribed by the terms of any applicable special warranty required by the Contract Documents. The Warranty Bond, furnished by the Contractor, shall cover such defects and protect the County against them.

END OF SECTION 00 73 00



SECTION 01 26 00 – CONTRACT MODIFICATIONS PROCEDURES

PART-1 - GENERAL

1.01 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including Section 00 72 00 – General Conditions of the Contract for Construction and Section 00 73 00 – Supplementary Conditions and other Sections, apply to this Section.
- B. Refer to Section 00 72 00 – General Conditions of the Contract for Construction, Article 12 for additional provisions regarding changes in the work. If any provision in this Section 01 26 00 should conflict with any provision in General Conditions Article 12, this Section shall control.

1.02 NO CHANGES WITHOUT CONSENT; PERFORMING WORK ORDERED

- A. No extra Work shall be performed, and no change shall be made, except pursuant to a written Change Order, Work Authorization, or Field Order from the County stating that the extra Work or change is authorized, and no claim for any addition to the Contract Price or Time for Completion shall be valid unless ordered. However, nothing in this Section shall excuse the Contractor from diligently proceeding and fully completing the Project.

1.03 CHANGE ORDERS AUTHORIZED; PROCEDURE

- A. Authorization
 1. Change Orders Authorized. Subject to legal requirements relating to competitive bidding, the County may require changes in, additions to, or deletions from the scope of the Work to be performed or the materials to be furnished pursuant to the Contract Documents.
The County may, at any time, without notice to the sureties, by written order designated or indicated to be a Change Order, make any change or modification in the Work, or add to the Work within the general scope of the Contract, including, but not limited to changes:
 - a. In the Specifications or Drawings;
 - b. In the sequence, method or manner of performance of the Work;
 - c. In the County-furnished facilities, equipment, materials, service, or site.
 2. County Directed Changes Requiring an Increase in Contract Sum. If the Change in or addition to the work will result in an increase in the Contract Sum, the County shall have the right to require the performance thereof on a Lump Sum basis or a Time and Material basis, all as hereinafter more particularly described. The right of the County as aforesaid shall apply with respect to each Change in the Work.
- B. Methods of Calculation. Adjustments, if any, to the Contract Price by reason of any such change, addition or deletion, shall be determined by one or more of the following methods, at the County's sole discretion. The Contractor shall provide sufficient substantiating data to allow the County to evaluate the Contractor's request for a Change Order.
 1. By a lump sum proposal by the Contractor accepted or amended by formal action by the County; and/or



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2. By time and materials charges, limited to the "Actual. Cost" to perform the Work, as defined by Paragraph D of this Article, plus overhead and profit as allowed by Paragraph C of this Section.
- C. Overhead/Profit and Allowable Time Limitations on Change Orders. If the County elects to have the Change in the Work performed on a Lump Sum basis, its election shall be based on a lump sum proposal, which shall be submitted by the Contractor to the Project Manager within ten (10) working days of the Contractor's receipt of a request. The County reserves the right to request the Contractor to adjust the price of the change order if the County disagrees with the Contractor's quoted price. The County's request for a lump sum proposal shall not be deemed an election by the County to have the change in the Work performed on a lump sum basis. The Contractor's and the Contractor's subcontractor's proposal shall be itemized and segregated by labor and materials for the various components of the change in, or addition to, the Work (no aggregate labor total will be acceptable) and shall be accompanied by signed proposals of any subcontractors who will perform any portion of the change in, or addition to, the Work and of any persons who will furnish materials or equipment for incorporation therein. The proposal shall also include the Contractor's estimate of the time required to perform said changes or additional work
- The portion of the proposal relating to labor, whether by the Contractor's forces or the forces of any of its subcontractors, may include reasonable anticipated costs of job site labor, including foremen, who will be directly involved in the change in the Work, for such time as they will be so involved. The Contractor's cost for Project Managers, Project Engineers, Superintendents, Clerical, and like personnel are considered as contained in overhead.
1. The Contractor's proposal for additional Work shall include by itemized breakdown for Work done by Contractor's own forces and including subcontractors with sub-subcontractors' itemized breakdowns:
 - a. Cost of labor, including hourly base wage's, Social Security taxes, Federal or State unemployment taxes, worker's compensation insurance, and fringe benefits required by collective bargaining agreements effective for the Contractor or subcontractor.
 - b. Cost of materials and equipment or furnishings which will be incorporated into the permanent Work, including manufacturers or supplier's cost, sales taxes, and cost of delivery.
 - c. Construction equipment costs (not small tools) for time of use required at Contractor's or Subcontractor's unit rates or at discounted local published rates, whichever is less.
 - d. General Conditions, General Requirements, supervision, overhead (excluding small tools) and profit applied to items number a, b, and c above for:
 - (1) Work done by Contractor's own forces; not including bond and insurance premiums, 15% of the cost of that portion of additional work.
 - (2) Work done by subcontractors, all tiers, including bond and insurance premiums, if any, shall not exceed 15% of the cost of that portion of the work plus 5% for the General Contractor. Total combined General Contractor and Sub-Contractor fee shall not exceed 20%.



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- constitute an acknowledgment by the County that the items were reasonably required for the change in the Work.
5. No costs for General Conditions, General Requirements, supervision, overhead, and profit will be paid by the County on account of a change in the work" except as specifically provided in Paragraph 1.03. C. and shall be deemed to include all costs and expenses which the Contractor or any of its subcontractors may incur in the performance of a change in the Work and which are not otherwise specifically recoverable by them pursuant to Paragraph 1.03.
- D. "Actual Costs" Defined. The actual cost to perform the Work for purposes of this Section is limited to the applicable labor rates, including Contractor's contributions directly attributable to the Work authorized; and the material man's or supplier's invoice amount for all material and equipment actually used to accomplish the work authorized. All other direct and indirect costs, all costs attributable to the time needed to perform the Work ordered by such Change Orders, and all profit associated with such Work shall be included in the maximum overhead and profit amounts stated hereinabove.
- E. Audit and Verification. With respect to any change in the Work resulting in a change in the Contract Sum, the Contractor shall afford and shall require its subcontractors to afford access to the County at all reasonable times to any books, correspondence, instructions, receipts, vouchers, memoranda, and records of any kind relating thereto, all of which shall be maintained by the appropriate parties for a period of at least three (3) years from and after the date the County makes payment on account of such change in work. The Contractor authorizes the County and shall require its subcontractors to authorize the County to check directly with any suppliers of labor and material with respect to, and to obtain, sworn statements and waivers of lien, if the County so elects.
- F. Changes Requiring a Decrease in Contract Sum. If the change in the Work will result in a decrease in the Contract Sum, the County shall require a quotation by the Contractor of the amount of such decrease for use in preparing a Change Order. The Contractor's quotation shall be forwarded to the County within ten (10) working days of the Project Manager's request and, if acceptable to the Project Manager, shall be incorporated in the Change Order. Contractor's quotation shall include all direct costs associated with the decreased scope of work, plus five percent (5%) for overhead. If not acceptable, the parties shall make every reasonable effort to agree as to the amount of such decrease, which may be based on a Lump Sum, properly itemized basis in accordance with Subparagraph 1.03.C. If the Project Manager and the Contractor are unable to agree on the amount of such decrease, the decrease shall be the total estimated reduction in actual cost of the Work, as determined by the Project Manager in his/her reasonable judgment and the Contractor shall be bound to credit this amount to the County.
- G. Periodic Change Orders. The Project Manager is authorized to cumulate Work Authorizations and process periodic Change Orders including additions and deletions, and to develop procedures providing the methods for such processing in addition to and consistent with those set forth in herein.



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1.04 WORK AUTHORIZATIONS; PROCEDURE

- A. Work Authorizations Authorized. The County or designee is authorized to issue Work Authorizations instructing the Contractor to proceed with extra Work.
- B. Quotation by Contractor. Other than in extraordinary circumstances, as described below, before a Work Authorization is issued, the Contractor shall submit a quotation setting forth an estimated cost of the Work to be performed with sufficient substantiating data to allow the County to evaluate the quotation, and an estimate of the time necessary to perform the Work. If requested by the Project Manager, the Contractor shall provide additional data to support the quotation. The Contractor shall acknowledge the quotation as binding.
- C. Request for Price Adjustment. After the extra Work specified on the Work Authorization is completed, the Contractor may submit a request for a Contract Price Change Order due to the Work Authorization. The request shall be supported with substantiating data to show the actual costs to perform the Work and the overhead and profit being requested, as defined in Sections 1.03.C. and 1.03.O. The maximum price adjustment claimed shall not exceed ONE HUNDRED AND TEN PERCENT (110%) of the approved quotation.
- D. Request for Time Adjustment. If the Contractor claims that the Work Authorization has delayed the construction completion time, he shall verify' the claimed delay by demonstrating with reference to the approved Project Progress Schedule that the Work Authorization in fact caused a delay in the overall completion date of the Project. Upon such demonstration; the' Project Manager shall process a request for a Contract Time extension Change Order pursuant to Specification Section 00 72 00 – General Conditions of the Contract for Construction, Article 8.
- E. Accumulation of Work Authorizations. At the Project Manager's sole discretion, the Contractor's claims for Change Orders arising from several Work Authorizations may be accumulated into periodic Change Orders adjusting Contract Price, Time, or both, separately or in one Change Order. Such periodic Change Orders shall include deductions for changes which constitute Deductive Change Orders as defined in Section 1.03.F., during the time period being considered in the periodic Change Order.
- F. Immediate Work Authorizations. In the event extraordinary circumstances arise which require extra Work to be authorized before the Contractor, the County or designee prepares a quotation may issue an immediate Work Authorization without such quotation. Such Work Authorization shall include a maximum authorized sum over which no price adjustment will be authorized. The determination as to whether circumstances as described above exist is discretionary with the County. Such Work Authorizations otherwise shall be processed as specified in this Section.

1.05 FIELD ORDERS; PROCEDURES

- A. Field Orders Authorized. The Project Manager may issue Field Orders instructing the Contractor to proceed with Work differing from that shown in the Contract Documents, and which changes the Scope of the Work, by adding or deleting Work, by instructing Work to be located differently than shown on the Contract Drawings or making other minor changes which the Project Manager determines are in the County's best interests.
- B. No Price or Time Adjustment Authorized. Field Orders are not authorized to change the Contract Price or Time, or to bind the County to the payment of any sum to the Contractor.



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- C. No Cost Adjustments Required. If the change ordered in the Field Order will neither delete nor add costs to the Project, the Field Order shall so note. If the Contractor contends that extra work is required, Section 1.03 shall apply.
- D. Cost Adjustments Required: If the change ordered in the Field Order will either delete or add costs to the Project, the Field Order shall instruct the Contractor to submit its quotation. Thereafter, Section 1.02 or Section 1.03, as specified by the Project Manager, shall apply.
- E. Proceeding Before Decision. If the Contractor proceeds with Work noted on a Field Order without notifying the Project Manager of its claims that the Work is extra work, the Contractor shall have waived its right to request an adjustment to the Contract Price and/or Time. Such notification must be made prior to commencing any of the work noted on the Field Order.

1.06 EXTRA WORK REQUESTS; PROCEDURE

If the Contractor claims that any Clarification, Field Order, or other instruction issued by the County requires Work beyond the Scope of the Agreement for Construction, the following provisions shall apply:

- A. Notice to Project Manager. Within ten (10) calendar days, the Contractor shall notify the Project Manager of its request, and submit a quotation for the requested costs, pursuant to Section 1.03.C. The Contractor shall submit additional information requested by the Project Manager to decide the request.
- B. Action by Project Manager. The Project Manager shall review the Contractor's submittals and either recommend for approval or deny Contractor's request. If the request is approved, the Project Manager may process either a Change Order or Work authorization, pursuant to this Section. If the request is denied, the Project Manager shall so advise the Contractor. Thereafter, the Contractor shall proceed with the Work in issue. The Project Manager shall issue his/her decision within twenty-one (21) calendar days of receipt of a complete submittal from the Contractor. The Project Manager shall recommend final action to the County and the County's decision shall be binding on the Contractor.
- C. Time. If the request is approved, the time during which the request was being considered shall be included in the time allocation for the Work Authorization adjusting the request, and Article 1.03 shall apply thereto; if the request is adjusted by Change Order, any Time extension authorized thereby shall include the Time during which the request was pending. If the request is denied, no Time adjustment shall be authorized.
- D. Effect of Proceeding. If the Contractor proceeds with the Work without notifying the Project Manager pursuant to Paragraph A, or before a decision pursuant to Paragraph B, any claim for a Contract Price and/or Time adjustment shall be waived.
- E. Scheduling. The Contractor is responsible to schedule the Work and submit extra-work requests, so the time required for decision, as specified in Paragraph B, does not delay the Work in general.
- F. Contractor Notice of Change. If the Contractor asserts that any event or occurrence has caused a change in, or addition to, the Work which change causes an increase or decrease in the Contractor's cost or the time required for the performance of any part of the Work under the contract, the Contractor shall, within ten (10) working days of such event, give the County written notice as herein required. Said notice shall include the instructions or circumstances that are the



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basis of the change and the Contractor's best estimate of the cost and time involved.

1. If the Contractor intends to assert a claim under this Section, he/she must, within Ten (10) working days after receipt of a written Change Order above or the furnishing of a written notice under Paragraph 1.06.F. Submit to the Project Manager a written statement setting forth the specific nature and cost of such claim, unless this period is extended by the Project Manager. The statement of claim may be included in the notice under Paragraph 1.06.F above. Failure to submit such written notice within the specified time frame shall be deemed a waiver of the claim. The statement of claim shall include all direct, indirect and impact costs associated with the change, as well as the Contractor's estimate of the schedule impact of the change, if any.
2. If the parties are unable to agree to the reasonable cost and' time to perform the Change or are unable to agree as to whether a change occurred, the County shall make unilateral determination as described in Sub subparagraph 1.03. C.2. The Contractor shall proceed pursuant to the provisions of' that Section.

1.07 CHANGE ORDERS REGARDING TIME FOR COMPLETION

Any time extension authorized by the County pursuant to Specification Section 00 72 00 – General Conditions of the Contract for Construction, Article 8, herein shall be set forth in a Change Order issued by the Project Coordinator and County Administrative Officer or the Board of Supervisors.

1.08 CHANGE ORDERS DUE TO UNAVAILABLE MATERIALS

In the event that the Contractor demonstrates good cause for a delay in the Contract Time due to the unavailability of materials, the County; in its sole discretion, may either grant a Contract time extension, or utilize this Section.

In the event that the Project is unable to be completed due to unavailable materials, and if the Project is completed otherwise, the Contractor may request to delete the portion of the Project not yet completed from the Agreement for Construction, thereby allowing a Notice of Completion to be filed on the remainder of the Project. The County shall approve no such Change Order unless the Contractor accompanies his request with an offer to perform the Work so deleted for a price not to exceed the value of the Work deleted by such Change Order, such Work to be commenced upon delivery of the materials, and diligently prosecuted to completion.

In the event the County elects to accept the Contractor's offer, Work done pursuant thereto shall not be construed as Work done on the Project, nor shall such Work be construed as affecting, in any way, the legal significance of the Notice of Completion filed on the Project. The application of this Section is limited as follows:

- A. No Change Order shall be issued pursuant to this Section until the Contractor has submitted all documents required for final payment.
- B. This Section shall apply only to Work, the completion of which is precluded due to unavailable materials.
- C. Utilization of this Section lies solely within the discretion of the County, and such discretion hereby is delegated to the Project Manager.



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1.09 EFFECT OF CONTRACTOR'S ACCEPTANCE OF CHANGE ORDER

By accepting a Change Order, Contractor agrees to the changes, if any, in the Contract Price specified for each item and to the specified Extension of time allowed, if any, for completion of the entire Work on account of such Change Order and agrees to furnish all labor and materials and perform all Work necessary to complete all additional Work for the price adjustment and within the time specified. Contractor shall make no additional claim for adjustment to the Contract Price or time, nor, for additional costs or damages, on account of the work referenced in such Change Order. A Change Order duly issued by the County and accepted by the Contractor shall constitute a complete accord and satisfaction as to the work, Contract Price, and Contract Time changed thereby. Contractor shall defend and indemnify the County, its officers, employees, agents and consultants, if any Subcontractor asserts any claim against the County due to a duly issued and accepted Change Order.

1.10 EFFECT ON SURETIES

All changes authorized by the Contract Documents may be made without notice to, or consent of, the sureties on the Performance and Payment bonds, and shall not reduce their liability on the bonds.

The County reserves the right to require additional Performance or Payment bonds to secure a Change Order. In this event, the Change Order shall be increased by the actual cost of the bond premium for the additional bond amounts if any.

1.11 GENERAL PROVISIONS RELATED TO CHANGES

The Contractor shall not be entitled to any amount for indirect costs, damages, or expenses of any nature, including, but not limited to, so-called "impact" or "cumulative" costs, labor inefficiency, wage, material or other escalations beyond the prices upon which the proposal is based and to which the parties have agreed, and which the Contractor, its subcontractors or sub-subcontractors or any other person may incur as a result of delay, interferences, suspensions, changes in sequence or the like, for whatever cause, whether reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable, arising from the performance of any and all changes in the Work performed. It is understood and agreed that the Contractor's sole and exclusive remedy in such event shall be recovery of his direct costs as compensable hereunder and an extension of the contract Time, but solely in accordance with the provisions of the Contract Documents.

No claim by the Contractor hereunder shall be allowed if asserted after final payment under this Contract. No claim relating to or flowing from a particular Change shall be allowed after execution of the Change Order relating to that change.

If any disputes should arise between the parties with respect to an increase or decrease in the Contract Sum or an expansion or contraction in the Contract Time as a result of a change in the Work, the Contractor shall not suspend performance of a change in the Work or the Work itself unless otherwise so ordered by the County in writing. The County shall, however, pay to the Contractor up to the County's reasonable estimated value of the change in the Work, regardless of the dispute, if said change in the Work results in an increase in the Contract Sum; and the County shall have the right to decrease the Contract Sum up to the County's reasonable estimated value of the change in the work, regardless of the dispute, if said change in the Work results in a decrease in the Contract Sum, and the Contractor shall be bound by the County's decision as to amount of payment or credit.



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1.12 MINOR CHANGES IN THE WORK

The County and/or Project Manager shall have authority to order minor changes in the Work not involving an adjustment in the Contract sum or an extension of the Contract Time, and not inconsistent with the Contract Documents. Such changes shall be affected by written order and shall be binding on the County and the Contractor. The Contractor shall carry out such written orders promptly.

END OF SECTION 01 26 00