

CONTRACT

THIS CONTRACT, is made by and between [REDACTED] hereinafter called the Contractor, and the Calwa Park District, hereinafter called the Owner.

W I T N E S S E T H:

The Contractor and the Owner, for the consideration hereinafter stated, agree as follows:

1. SCOPE OF WORK.

The Contractor agrees to furnish all labor and materials, including tools, implements, and appliances required, and to perform all the work in a good and workmanlike manner, free from any and all liens and claims of mechanics, teamsters, draymen and laborers required for the

SITE PREPARATION – CALWA MINI-PITCH PROJECT

as shown on the plans prepared by the Calwa Park District in strict compliance with the Plans, Drawings and Specifications therefore prepared by the Owner and other Contract Documents relating thereto.

2. CONTRACT DOCUMENTS.

The term Contract includes all “Contract Documents” which include the following:

- A. Advertisement (Notice Inviting Bids)
- B. Wage Scale (Prevailing Wages)
- C. Plans and Drawings
- D. Addenda and Bulletins
- E. Contractors Bid Proposal hereto attached
- F. This Contract

3. COMPENSATION.

The Owner agrees to pay the Contractor for the performance of the Contract the sum of Contract Value in Words (\$Contract Value in Numbers).

It is understood that said price is based upon the estimated quantities of materials to be used as set forth in the Proposal; and upon completion of the project, the final contract price shall be revised, if necessary, to reflect the true quantities used at the stated unit price thereof as contained in the Contractor’s Proposal hereto attached.

4. SUSPENSION OF THE WORK.

- A. General: The Work may be suspended in whole or in part when determined by the District Administrator that the suspension is necessary in the interest of the Owner. The Contractor shall comply immediately with any written order of the District Administrator. Such suspension shall be without liability to the Contractor on the part of the Owner except as otherwise provided in subsection 7C.
- B. Archaeological and Paleontological Discoveries: If discovery is made of items of archaeological or paleontological interest, the Contractor shall immediately cease excavation in the area of discovery and shall not continue until ordered by the District Administrator.

Discoveries which may be encountered may include, but not be limited to, dwelling sites, stone implements or other artifacts, animal bones, human bones, and fossils. The Contractor shall be entitled to an extension of time and compensation in accordance with Section 7.

5. TERMINATION OF THE CONTRACT FOR DEFAULT.

- A. General: If, prior to the acceptance of the Work, the Contractor:
- (1) Becomes insolvent, assigns its assets for the benefit of its creditors, is unable become due, or is otherwise financially unable to complete the Work;
 - (2) Abandons the Work by failing to report to the Work site and diligently prosecute the Work to completion;
 - (3) Disregards written instructions from the District Administrator or materially violates provisions of the Contract Documents;
 - (4) Fails to prosecute the Work according to the schedule approved by the District Administrator;
 - (5) Disregards laws or regulations of any public body having jurisdiction; or
 - (6) Commits continuous or repeated violations of regulatory or statutory safety requirements, then the Owner will consider the Contractor in default of the Contract.
- B. Notices: Notices and other written communications regarding default between the Contractor, the Owner, and the Surety shall be transmitted as follows:
- (1) Personal delivery with proof of delivery which may be made by declaration under penalty of perjury by any person over the age of 18 years. The proof of delivery shall show that delivery was performed in accordance with these provisions. Service shall be effective on the date of delivery. Notices given to the Contractor by personal

delivery may be made to the Contractor's authorized representative at the Work site;
or

- (2) Certified mail addressed to the mailing address of the recipient postage prepaid; return receipt requested. Service shall be effective on the date of the receipt of the mailing.

Simultaneously, the Owner may send the same notice by regular mail. If a notice that is sent by certified mail is returned unsigned, then delivery shall be effective pursuant to regular mail, provided that the notice that was sent by regular mail is not returned.

- C. Notice to Cure: The Owner will issue a written notice to cure the default to the Contractor and its Surety. The Contractor shall commence satisfactory corrective actions within 5 Working Days after receipt.
- D. Notice of Termination for Default: If the Contractor fails to commence satisfactory corrective action within 5 Working Days after receipt of the notice to cure, or to diligently continue satisfactory and timely correction of the default thereafter, then the Owner will recommend to the Board that the Contractor be found in default of the Contract and upon such finding by the Board:
 - (1) Will terminate the Contractor's right to perform under the Contract by issuing a written notice of termination for default to the Contractor and its Surety;
 - (2) May use any materials, equipment, tools, or other facilities furnished by the Contractor to secure and maintain the Work site; and
 - (3) May furnish labor, equipment, and materials the Owner deems necessary to secure and maintain the Work site.

The provisions of this subsection shall be in addition to all other legal rights and remedies available to the Owner.

- E. Responsibilities of the Surety: Upon receipt of the written notice of termination for default, the Surety shall immediately assume all rights, obligations, and liabilities of the Contractor under the Contract. If the Surety fails to protect and maintain the Work site, the Owner may do so, and may recover all costs incurred. The Surety shall notify the Owner that it is assuming all rights, obligations, and liabilities of the Contractor under the Contract and all money that is due, or would become due, to the Contractor shall be payable to the Surety as the Work progresses, subject to the terms of the Contract.

Within 15 Working Days of receipt of the written notice of termination for default, the Surety shall submit to the Owner a written plan detailing the course of action it intends to take to remedy the default. The Owner will review the plan detailing and notify the Surety if the plan is satisfactory. If the Surety fails to submit a satisfactory plan, or if the Surety fails to maintain progress according to the plan accepted by the Owner, the Owner may, upon 48 hours written notice, exclude the Surety from the premises, take possession of all material and equipment, and complete the Work in any way the Owner deems to be

expedient. The cost of completing the Work by the Owner shall be charged against the Surety and may be deducted from any monies due, or which would become due, the Surety. If the amounts due under the Contract are insufficient for completion, the Surety shall pay the Owner, within 30 Days after the Owner submits an invoice, all costs in excess of the remaining Contract Price.

F. **Payment:** The Surety will be paid for completion of the Work in accordance less the value of damages caused to the Owner by the acts of the Contractor.

6. TERMINATION OF THE CONTRACT FOR CONVENIENCE.

The Owner may terminate the Contract if it becomes impossible or impracticable to proceed, or because of conditions or events beyond the control of the Owner.

A. **Notice:** The Owner will issue a written notice of termination for convenience as follows:

(1) Personal delivery, with proof of delivery which may be made by declaration under penalty of perjury by any person over the age of 18 years. The proof of delivery shall show that delivery was performed in accordance with these provisions. Service shall be effective on the date of delivery. Notices given to the Contractor by personal delivery may be made to the Contractor's authorized representative at the Work site; or

(2) Certified mail addressed to the mailing address of the recipient postage prepaid; return receipt requested. Service shall be effective on the date of the receipt of the mailing.

Simultaneously, the Owner may send the same notice by regular mail. If a notice that is sent by certified mail is returned unsigned, then delivery shall be effective pursuant to regular mail, provided that the notice that was sent by regular mail is not returned.

B. **Cessation of Work:** Upon receipt, the Contractor shall immediately cease work, except work the Contractor is directed to complete by the District Administrator or required to complete for public safety and convenience. The Contractor shall immediately notify Subcontractors and suppliers to immediately cease their work.

C. **Payment:** The Contractor will be paid without duplication for:

(1) Work completed in accordance with Contract Documents prior to the effective date of termination for convenience;

(2) Reasonable costs incurred in settlement of terminated contracts with Subcontractors, suppliers and others; and

(3) Reasonable expenses directly attributable to termination.

The Contractor shall submit a final termination settlement proposal to the Owner no later than 90 days from the effective date of termination, unless extended, in writing, by the Owner upon written request by the Contractor.

If the Contractor fails to submit a proposal, the Owner may determine the amount, if any, due the Contractor as a result of the termination. The Owner will pay the Contractor the amount it determines to be reasonable. If the Contractor disagrees with the amount determined by the Owner as being reasonable, the Contractor shall provide notice to the Owner within 30 Days of receipt of payment. Any amount due shall be as later determined by arbitration, if the Owner and the Contractor agree thereto, or as fixed in a court of law.

7. DELAYS AND EXTENSIONS OF TIME.

- A. General: If delays are caused by unforeseen events beyond the control of the Contractor, such delays will entitle the Contractor to an extension of Contract time as provided herein, but the Contractor will not be entitled to damages or additional payment due to such delays, except as otherwise specified in Subsection 7C of this Contract. Such unforeseen events may include: war, government regulations, labor disputes, strikes, fires, floods, adverse weather or elements necessitating cessation of work, inability to obtain materials, labor, or equipment

No extension of time will be granted for a delay caused by the Contractor's inability to obtain materials unless the Contractor furnishes to the District Administrator documentary proof. The proof must be provided in a timely manner in accordance with the sequence of the Contractor's operations and the approved construction schedule.

If delays beyond the Contractor's control are caused by events other than those mentioned above, the District Administrator may deem an extension of time to be in the best interests of the Owner. The Contractor will not be entitled to damages or additional payment due to such delays, except as otherwise specified in Subsection 7C of this Contract.

If delays beyond the Contractor's control are caused solely by action or inaction of the Owner, such delays will entitle the Contractor to an extension of time per subsection B of this Contract.

- B. Extensions of Time: Extensions of time, when granted, will be based upon the effect of delays to the Work. They will not be granted for non-controlling delays to minor portions of the Work unless it can be shown that such delays did or will delay the progress of the Work.
- C. Payment for Delays: Pursuant to Public Contract Code Section 7102, the Contractor will be compensated for damages incurred due to delays for which the Owner is responsible. Such actual costs will be determined by the District Administrator. The Owner will not be liable for damages which the Contractor could have avoided by any reasonable means, such as judicious handling of forces, equipment or plant. The determination of what damages the Contractor could have avoided will be made by the District Administrator.
- D. Written Notice and Report: If the Contractor desires payment for a delay as specified in subsection C above or an extension of time, it shall file with the District Administrator a written request and report of cause within 30 Days after the beginning of the delay. The

request for payment or extension must be made at least 15 days before the specified completion date. Failure by the Contractor to file these items within the times specified will be considered grounds for refusal by the Owner to consider such a request.

- E. Time of Completion: The Contractor shall complete the Work in fifty (50) Working Days.
- F. Contract Time Accounting: The District Administrator will make a daily determination of each Working Day to be charged against Contract time. These determinations will be discussed and the Contractor will be furnished a periodic statement showing the allowable number of Working Days of Contract time, as adjusted at the beginning of the reporting period. The statement will also indicate the number of Working Days charged during the reporting period and the number of Working Days of Contract time remaining. If the Contractor does not agree with the statement, it shall file a written protest within 15 Days after receipt, setting forth the facts of the protest. Otherwise, the statement will be deemed to have been accepted.

8. COMPLETION, ACCEPTANCE, AND WARRANTY.

- A. Completion: The Contractor shall submit a written assertion that the Work has been completed. If, in the District Administrator's judgment, the Work has been completed in accordance with the Contract Documents, the District Administrator will set forth in writing the date the Work was completed. This will be the date when the Contractor is relieved from responsibility to protect and maintain the Work and to which liquidated damages will be computed.
- B. Acceptance: Acceptance will occur after all of the requirements contained in the Contract Documents have been fulfilled. If, in the District Administrator's judgment, the Contractor has fully performed the Contract, the District Administrator will recommend to the Board that the Contractor's performance of the Contract be accepted.
- C. Warranty: The Work shall be warranted by the Contractor against defective materials and workmanship for a period of 2 years. The warranty period shall start on the date the Work was completed as determined by the District Administrator.

The warranty period for specific items covered under manufacturers' or suppliers' warranties shall commence on the date they are placed into service at the direction of or as approved by the District Administrator in writing.

All warranties express or implied, from subcontractors, manufacturer, or suppliers, of any tier, for the materials furnished and work performed shall be assigned, in writing, to the Owner, and such warranties shall be delivered to the District Administrator prior to acceptance of the Contractor's performance of the Contract.

The Contractor shall replace or repair defective materials and workmanship in a manner satisfactory to the District Administrator, after notice to do so from the District Administrator, and within the time specified in the notice. If the Contractor fails to make such replacement or repairs within the time specified in the notice, the Owner may perform

the replacement or repairs at the Contractor's expense. If the Contractor fails to reimburse the Owner for the actual costs, the Contractor's Surety shall be liable for the cost thereof.

9. LIQUIDATED DAMAGES.

Failure of the Contractor to complete the Work within the time allowed will result in damages being sustained by the Owner. Such damages are, and will continue to be, impracticable and extremely difficult to determine. For each consecutive calendar day in excess of the time specified for completion of the Work, as adjusted in accordance with Section 7 above, the Contractor shall pay to the Owner, or have withheld from monies due it, the sum of \$500.00. Execution of the Contract shall constitute agreement by the Owner and the Contractor that \$500.00 per day is the minimum value of the costs and actual damage caused by the failure of the Contractor to complete the Work within the allotted time. Such sum is liquidated damages and shall not be construed as a penalty, and may be deducted from payments due the Contractor if such delay occurs.

10. INDEMNIFICATION

To the maximum extent permitted by Civil Code Section 2782 *et seq.*, Owner shall not be liable for, and Contractor shall defend, indemnify, and hold harmless Owner and its officers, agents, District Administrators, architects, consultants, employees and volunteers (collectively "Owner Parties"), against any and all claims, deductibles, self-insured retentions, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including attorneys' fees and court costs (collectively referred to as "Claims"), which arise out of or are in any way connected to the work covered by this Contract arising either directly or indirectly from any act, error, omission or negligence of Contractor or its officers, employees, agents, contractors, sub-contractors, licensees or servants, including, without limitation, Claims caused by the concurrent negligent act, error or omission, of Owner Parties. However, Contractor shall have no obligation to defend or indemnify Owner Parties against Claims caused by the active negligence, sole negligence or willful misconduct of Owner Parties. This indemnification shall apply to all liability, as provided for above, regardless of whether any insurance policies are applicable, and insurance policy limits do not act as a limitation upon the amount of the indemnification to be provided by the Contractor.

11. INSURANCE.

Contractor, at its sole cost and expense, shall obtain and maintain in full force and effect throughout the entire term of this Contract, the following-described insurance coverage, insuring not only Contractor and its subcontractors, if any, but also, with the exception of workers' compensation and employer's liability insurance, the Owner, its officers, agents, and employees of each of them:

A. MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

- (1) Insurance Services Office Commercial General Liability coverage (Occurrence form CG 0001).

- (2) Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
- (3) Worker's Compensation insurance as required by the State of California and Employer's Liability Insurance.

B. MINIMUM LIMITS OF INSURANCE

Contractor shall maintain limits no less than:

- (1) General Liability: \$2,000,000 per occurrence for bodily injury, personal injury, and property damage. If commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this product / location or the general aggregate limit shall be twice the required occurrence limit.
- (2) Automobile Liability: \$2,000,000 per accident for bodily injury and property damage.
- (3) Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

C. DEDUCTIBLES AND SELF-INSURED RETENTIONS

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

D. OTHER INSURANCE PROVISIONS

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- (1) The Owner, its officers, officials, employees, agents and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the Owner, its officers, officials, employees, agents or volunteers.
- (2) For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the Owner, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the Owner, its officers,

officials, employees, agents or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

- (3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Owner, its officials, employees, agents or volunteers.
- (4) 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.
- (5) Each insurance policy required by this clause shall be endorsed to state the coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Owner.

E. ACCEPTABILITY OF INSURERS

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

F. VERIFICATION OF COVERAGE

Contractor shall furnish the Owner with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the Owner. All endorsements are to be received and approved by the Owner before work commences. As an alternative to the Owner's forms, the Contractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

G. SUBCONTRACTOR

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.

Contractors Property Damage Liability insurance shall include coverage for property damage caused by blasting, collapse, structural injuries or damage to underground utilities. The policy shall not contain "x", "c" or "u" exclusions.

Certificates of such insurance shall be filed with the Owner concurrently with the execution of this Contract or, with Owner's approval, within ten (10) days thereafter. Said certificates shall be subject to the approval of the Owner.

12. WORKERS COMPENSATION.

Contractor represents that he or she has secured the payment of Worker's Compensation in compliance with the provisions of the Labor Code of the State of California and during the performance of the work contemplated herein will continue so to comply with said provisions of said Code. Contractor shall supply the Owner with certificates of insurance, in triplicate, evidencing that Worker's Compensation Insurance is in effect and providing that the Owner will receive ten (10) days written notice of cancellation. If the Contractor self-insures Worker's Compensation, Certificate of Consent of self-insured shall be provided the Owner.

13. BONDS.

The Contractor shall forthwith furnish in triplicate two bonds, each in the amount of 100 percent of the Contract price. One shall serve as security for the faithful performance of the work (hereafter "Performance Bond"). The second bond shall serve as security for the faithful performance and satisfaction of the persons furnishing materials and performing labor on the work (hereafter "Payment Bond"). Both bonds shall be written by a surety company licensed to transact surety business in the State of California and in the form prescribed by law.

The Performance Bond shall remain in force throughout the period required to complete the work and thereafter for a period of 730 calendar days after final acceptance of the work. The Payment Bond will be released 35 days after the recording date of the Notice of Completion, provided no liens are filed with the Owner. The Payment Bond shall contain provisions such that if the Contractor or its subcontractor shall fail to pay (a) amounts due under the Unemployment Insurance Code with respect to work performed under the contract, or (b) any amounts required to be deducted, withheld and paid over to the Employment Development Department from the wages of the employees of the Contractor and subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor, then the surety will pay these amounts. In case suit is brought upon the payment bond, the surety will pay reasonable attorneys' fees to be fixed by the court.

14. DEFECTIVE MATERIALS; DEFECTIVE WORK.

Should any of the materials or equipment prove defective or should the work as a whole prove defective, due to faulty workmanship, material furnished or methods of installation, or should the work or any part thereof fail to operate properly as originally intended and in accordance with the plans and specifications, due to any of the above causes, all within twenty four (24) months after date on which the completed project is accepted by the Owner, the undersigned agrees to reimburse the Owner, upon demand, for its expenses incurred in restoring said work to the condition contemplated in said project, including the cost of any such equipment or materials replaced and the cost of removing and replacing any other work necessary to make such replacement or repairs, or, upon demand by the Owner, to replace any such materials and to repair said work completely without cost to the Owner so that said work will function successfully as originally contemplated.

The Owner shall have the unqualified right to make any needed replacement or repairs after a written notice to cure has been served upon the Contractor and a reasonable time to cure has expired. In the event the Owner elects to have said work performed by the undersigned, the

undersigned agrees that the repairs shall be made within a reasonable time after the receipt of demand from the Owner. If the undersigned shall fail or refuse to comply with his obligations under this guaranty, the Owner shall be entitled to all costs and expenses, including attorney's fees, reasonably incurred by reason of the said failure or refusal.

15. LABOR STANDARDS.

- A. General: Contractor agrees that construction work shall be subject to the provisions of state and local regulations. In particular, Contractor agrees to comply with all applicable Labor Code requirements whether or not expressly stated herein.
- B. Wages:
- (1) General: The Contractor and each subcontractor engaged in the work shall pay each employee an amount not less than the rate established for each trade or occupation listed by the Director of the Department of Industrial Relations, State of California. An employee whose type of work is not covered by any of the classified wage rates shall be paid not less than the rate of wage listed for the classification which most nearly corresponds to the type of work to be performed.
 - (2) State: The Owner has obtained from the Department of Industrial Relations the general prevailing rate of wages in the vicinity of the work to be performed under this Contract. These wage rates are maintained on file by Owner at its principle office and will be made available to any interested party upon request.
 - (3) Enforcement: These wage rates shall be enforced under Sections 1770 through 1780 of the California Labor Code. The Contractor shall be liable for forfeitures or penalties incurred from noncompliance with Labor Code provisions.
 - (4) Payroll Records: Each Contractor and subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work 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 work on the Project. Such records shall be certified and available for inspection at all reasonable hours at the principal place of the Contractor as required by Labor Code Section 1776. Certified payrolls shall be submitted weekly to Owner c/o District Administrator. Electronic certified payrolls shall also be submitted weekly directly to the Labor Commissioner, Division of Labor Standards Enforcement.
- C. Preference for Resident Labor: Whenever possible in the employment of labor for performance of the work, the Contractor shall give preference to qualified persons residing within the general area of the work.
- D. Hours of Labor: Pursuant to the Labor Code, eight hours of labor shall constitute a legal day's work. The Contractor or any subcontractor shall not require any more than eight hours of labor in a day from any person employed in the performance of the work under this Contract except for authorized work as provided under paragraph Subsection E below.

Failure of the Contractor to perform the work in accordance with this policy of the State of California shall be deemed a failure to comply with the provisions of this Contract.

- E. Overtime Work: In accordance with Labor Code Section 1813, the Contractor shall as a penalty to the State or political subdivision on whose behalf the Contract is made or awarded, forfeit twenty-five (\$25.00) for each worker employed in the execution of the 39Contract by the Contractor or by any subcontractor for each calendar day during which said worker is required or permitted to work more than eight hours in any one calendar day and forty hours in any one calendar week in violation of Labor Code Sections 1810-1815.

Overtime and shift work may be established as a regular procedure by the Contractor with reasonable notice and written permission of the Owner. No work other than overtime and shift work established as a regular procedure shall be performed between the hours of 6:00 p.m. and 7:00 a.m. nor on Saturdays, Sundays or holidays except such work as is necessary for the proper care and protection of the work already performed or in case of an emergency.

Contractor agrees to pay the costs of overtime inspection except those occurring as a result of overtime and shift work established as a regular procedure. Overtime inspection shall include inspection required during holidays, Saturdays, Sundays and weekdays between the hours of 6:00 p.m. and 7:00 a.m. Costs of overtime inspection will cover District Administrator, inspection, general supervision and overhead expenses which are directly chargeable to the overtime work. Contractor agrees that Owner shall deduct such charges from payments due the Contractor.

- F. Apprentices: The Contractor and subcontractors shall comply with the requirements of Sections 1777.5 and 1777.6 of the Labor Code in the employment of apprentices.

Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex officio the Administrator of Apprenticeship Standards and its branch offices.

- G. Compliance with SB 854: California Labor Code: Contractor represents that it has complied and will continue to comply with all applicable registration and disclosure requirements of SB 854 and acknowledges the following:

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

- (4) No bid proposals will be accepted nor any contract entered into with a contractor without proof of registration described above.
- (5) Contractor must post any job site notices required by regulation. It is the Contractor's responsibility to know the current regulations.
- (6) Contractor must furnish electronic certified payroll records to the Division of Labor Standards Enforcement ("Labor Commissioner") as required. The Contractor is responsible for checking with the Department of Industrial Relations for any notices regarding this requirement.

16. LAWS, REGULATIONS AND PERMITS.

- A. General: The Contractor shall give the notices required by law and comply with all laws, ordinances, rules and regulations pertaining to the conduct of the work. The Contractor shall be liable for violations of the law in connection with work provided by the Contractor. If the Contractor observes that the drawings, specifications are at variance with any laws, ordinances, rules or regulations, the Contractor shall promptly notify the District Administrator in writing of such variance. The Owner shall promptly review the matter and, if necessary, shall issue a change order or take any other action necessary to bring about compliance with the law, ordinance, rule or regulation in question. Contractor agrees not to perform work known to be contrary to any laws, ordinances, rules, or regulations.
- B. Permits and Licenses: Unless otherwise specified herein, permits and licenses from governmental agencies which are necessary only for and during the prosecution of the work and the subsequent guarantee period shall be secured and paid for by the Contractor. Permits and licenses of regulatory agencies which are necessary to be maintained after completion of the guarantee period shall be secured and paid for by the Owner.
- C. Patents and Royalties: The costs involved in fees, royalties or claims for any patented invention, article, process or method that may be used upon or in a manner connected with the work under this Contract or with the use of completed work by the Owner, shall be paid by the Contractor. The Contractor and Contractor's sureties shall protect, defend, and hold Owner together with Owner's officers, agents and employees, harmless against any and all demands made for such fees or claims brought or made by the holder of any invention or patent. Before final payment is made on the account of this Contract, the Contractor shall, if requested by the Owner, furnish acceptable proof of a proper release from all such fees or claims.

Should the Contractor, agent, employee or any of them be enjoined from furnishing or using any invention, article, material or plans supplied or required to be supplied or used under this contract, the Contractor shall promptly pay such royalties and secure the requisite licenses; or, subject to acceptance by the Owner, substitute other articles, materials or appliances in lieu thereof which are of equal efficiency, quality, finish, suitability and market value to those planned or required under the Contract. Descriptive information of these substitutions shall be submitted to the District Administrator for determination of general conformance to the design concept and the construction Contract.

Should the Owner elect to refuse the substitution, the Contractor agrees to pay such royalties and secure such valid licenses as may be requisite for the Owner, Owner's officers, agents and employees or any of them, to use such invention, article, material or appliance without being disturbed or in any way interfered with by any proceeding in law or equity on account thereof.

17. CALIFORNIA LAW AND VENUE.

The terms of this Contract shall be governed by and construed in accordance with the laws of the State of California applicable to contracts entered into and to be performed in California. In the event any part of this Contract shall be held to be invalid, void, or otherwise unenforceable for any reason, the Contract shall be modified rather than voided, if possible, in order to achieve the intent of the parties to the extent possible and in any event, all other provisions of this Contract shall remain valid and enforceable.

18. MUTUAL NEGOTIATION.

Contractor acknowledges that the provisions herein have been mutually negotiated and neither party shall be construed to be the drafter of this Contract.

19. ATTORNEY'S FEES.

In the event of litigation concerning this Contract the prevailing party shall be awarded reasonable attorney fees and costs of suit, in addition to appropriate compensatory damages or other relief ordered for the benefit of the prevailing party.

IN WITNESS WHEREOF, the parties have executed this Contract as set forth below:

(OWNER)

(CONTRACTOR)

By: _____
Name, Title

By: _____

Date: _____

Title: _____

Approved as to Form:

Federal Taxpayer I.D. No.

Name and Title of Attorney

Date: _____

Date: _____