

Project Manual

GENERAL BUILDING JOB ORDER CONTRACT

Contract #'s 20-J-03, Class B
20-J-04
20-J-05

The County of Fresno Department of Public Works and Planning

2220 Tulare St., 6th Floor
Fresno, California 93721

B i d D o c u m e n t s

Pre-bid Conference: Wednesday, August 21, 2020, 10:00 a.m.

Bid Date: Thursday, September 3, 2020, 1400 hours and 00 seconds

Budget / Account – Various Funding Orgs



Development Services & Capital Projects Division

Department of Public Works & Planning

Contract: 20-J-03
20-J-04
20-J-05

Cover Sheet
00 00 10-1

COPY NO.

The County of Fresno
Department of Public Works and Planning

JOB ORDER CONTRACT

Contract #20-J-03, Class B
Contract #20-J-04, Class B
Contract #20-J-05, Class B

Adopted by the Fresno County Board of Supervisors, _____, 2020

Buddy Mendes, Chairman	4 th District
Steve Brandau, Vice Chairman	2 th District
Brian Pacheco	1 st District
Sal Quintero	3 rd District
Nathan Magsig	5 th District

Jean M. Rousseau, County Administrative Officer

Steven White, Director
Department of Public Works and Planning



8.20.20
Date Signed

Capital Projects: _____
Noel Roger Davidson, #C27818
License Renewal 10/31/21

Fresno County Department of Public Works and Planning – Capital Projects
2220 Tulare Street, 8th Floor
Fresno, CA 93721-2104

Consultant: **The Gordian Group**
30 Patewood Dr., Suite 350
Greenville, SC 29615

Contract No.: #20-J-03
20-J-04
20-J-05

Signature Page
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JOB ORDER CONTRACTS

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The County of Fresno
Department of Public Works & Planning
2220 Tulare St., 6th FL
Fresno, CA 93721

JOB ORDER CONTRACT

Contract #20-J-03, Class B
20-J-04
20-J-05

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***Sections 00 21 13 through 00 45 19 included in Bid Book**

Refer to the JOB ORDER CONTRACT CONSTRUCTION TASK CATALOG® and JOB ORDER CONTRACT TECHNICAL SPECIFICATIONS, DIVISION 01 – DIVISION 41 provided in electronic format.

END OF SECTION

1 **BOARD OF SUPERVISORS COUNTY OF FRESNO STATE OF CALIFORNIA**

2
3 **NOTICE TO BIDDERS**

4
5
6 Sealed proposals will be received at
7 <https://www.bidexpress.com/businesses/36473/home>, and at the Fresno County
8 Department of Public Works and Planning, Office of the Design Engineer, Seventh
9 Floor, Fresno County Plaza Building, 2220 Tulare Street, Fresno, CA 93721 until

10
11 **2:00 P.M., (1400 hours and 00 seconds)**
12 **Thursday, September 3, 2020**

13
14 at which time the bidding will be closed.

15
16 Due to the COVID-19 restrictions and guidelines, the Department's bid reception desk
17 may be closed and all bidders are encouraged submit bids online through Bid
18 Express.

19
20 **If a bidder is unable to submit online, please mail bid or e-mail**
21 **DesignServices@fresnocountyca.gov or call (559) 600-9908 in advance, so that**
22 **arrangements may be made to hand deliver your bid.**

23
24 Promptly following the closing of the bidding all timely submitted bids will be publicly
25 opened and viewable via a livestream (the link for which will be posted at
26 <http://www.co.fresno.ca.us/planholders>), for construction in accordance with the
27 specifications therefor, to which special reference is made as follows:

28
29 **GENERAL BUILDING JOB ORDER CONTRACT**

30
31 **Contract Nos.: 20-J-03, Class B**
32 **20-J-04, Class B**
33 **20-J-05, Class B**

34
35 A Job Order Contract is an indefinite quantity contract pursuant to which the Contractor
36 will perform an ongoing series of individual projects at different locations throughout
37 the County of Fresno. The bid documents include a Construction Task Catalog®
38 containing construction tasks with preset Unit Prices. All Unit Prices are based on local
39 labor prevailing wages, material and equipment prices and are for the direct cost of
40 construction.

41
42 **A MANDATORY pre-bid conference will be held at 10:00 a.m., on Friday, August**
43 **21, 2020 for the purpose of discussing the Job Order Contract concept,**
44 **documents, bid considerations and to discuss Job Order Contracting from a**
45 **contractor's viewpoint. The MANDATORY pre-bid conference will be held**
46 **online (the link for which will be posted at**
47 **<http://www.co.fresno.ca.us/planholders>).**

1 **Prospective bidders whose representative(s) attend the MANDATORY pre-bid**
2 **conference will receive the electronic link to the official specification books, the**
3 **Construction Task Catalog® and Technical Specifications.**
4

5 **The County reserves the right, in its sole discretion, to schedule a second pre-**
6 **bid conference via the issuance of an addendum to this contract. In such case,**
7 **attendance at only one of the pre-bid conferences will be mandatory.**
8

9 Bidders will bid three sets of Adjustment Factors to be applied to the Unit Prices. One
10 set of Adjustment Factors for County/State-funded projects, one set of Adjustment
11 Factors for Federally-funded projects and one set of Adjustment Factors for
12 County/State-funded projects in a Secure Facility. Each set of Adjustment Factors will
13 include one Adjustment Factor for performing work during Normal Working Hours and
14 a second Adjustment Factor for performing work during Other Than Normal Working
15 Hours. All Adjustment Factors apply to every task in the Construction Task Catalog®.
16

17 Upon award of contract and as projects are identified, the Contractor will jointly scope
18 the work with the County Project Manager. The County Project Manager will prepare
19 a Detailed Scope of Work and issue a Request for Proposal to the Contractor. The
20 Contractor will then prepare a Work Order Proposal for the project including a Work
21 Order Price Proposal, Schedule, Sketches or Drawings, a list of subcontractors, and
22 other requested documentation. The value of the Work Order Price Proposal shall be
23 calculated by summing the total of the calculation for each Pre-priced Task (Unit Price
24 x quantity x Adjustment Factor) plus the value of all Non Pre-priced Tasks.
25

26 If the Work Order Price Proposal is found to be reasonable, a Work Order may be
27 issued. The Contractor is required to complete each Detailed Scope of Work for the
28 Work Order Price within the Job Order Completion Time.
29

30 A Work Order will reference the Detailed Scope of Work and set forth the Work Order
31 Completion Time, and the Work Order Price. The Work Order Price is determined by
32 multiplying the preset Unit Prices by the appropriate quantities and by the appropriate
33 Adjustment Factor. The Work Order Price shall be a lump sum, fixed price for the
34 completion of the Detailed Scope of Work.
35

36 A separate Work Order will be issued for each project. Extra work, credits, and
37 deletions will be contained in a Supplemental Work Order.
38

39 **Minimum and Maximum Contract Values:**

40 A. The Minimum Contract Value for this Contract is \$25,000. If a contract is
41 awarded, the Contractor is guaranteed to receive the opportunity to perform
42 one or more Work Orders totaling at least \$25,000 issued during the Contract
43 Term.
44

45 B. The Maximum Contract Value is \$2,000,000, with one option to increase the
46 Maximum Contract Value up to the amount currently authorized by the
47 California Public Contract Code during the term of the Contract. The Contractor
48 is not guaranteed to receive this volume of Work Orders. It is merely an
49 estimate. The Owner has no obligation to issue Work Orders in excess of the
50 Minimum Contract Value. The awarded contractor will be required to obtain
51 payment and performance bonds for the Maximum Contract Value.

1
2 Contract Term:

- 3 A. The Contract Term commences on the date the contract is awarded by the
4 County of Fresno Board of Supervisors (i.e.: the effective date of the Contract).
5
6 B. The term of the Job Order Contract will be either for one year or when issued
7 Work Orders totaling the Maximum Contract Value have been completed,
8 whichever occurs first. All Work Orders must be issued but not necessarily
9 completed within one calendar year of the effective date of the Contract. All
10 Work Orders for which a Notice to Proceed is issued by the County Contract
11 Manager during the term of this Contract shall be valid and in effect
12 notwithstanding that the Detailed Scope of Work may be performed, payments
13 may be made, and the guarantee period may continue, after the Contract Term
14 has expired. All terms and conditions of the Contract apply to each Work Order.
15 No notices to proceed will be issued after 5:00, P.M. on the final day of the
16 Contract Term.
17

18 Planholder and exchange/publication names may be obtained from the Fresno
19 County website at <http://www.co.fresno.ca.us/planholders>. Bidders may fill out a
20 Request to be Added to Planholders List form:

21
22 [https://www.co.fresno.ca.us/departments/public-works-planning/divisions-of-public-
23 works-and-planning/design-division/planholders-list-request-to-be-added](https://www.co.fresno.ca.us/departments/public-works-planning/divisions-of-public-works-and-planning/design-division/planholders-list-request-to-be-added)
24

25 Requesters will then be listed as a planholder for the project on the website and
26 receive email notifications regarding the project.
27

28 Electronic copies (in “.pdf” file format) of the official project plans and specifications
29 and such additional supplemental project information as may be provided at the
30 mandatory pre-bid conference.
31

32 Electronic versions of the bid documents are available online at:
33 <https://www.bidexpress.com/businesses/36473/home> and bids may be submitted
34 electronically through that website. Planholders listed in the Bid Express website for
35 this project will also be listed as a planholder on the Fresno County website and will
36 receive email notifications regarding this project.
37

38 If a bidder is unable to submit a bid via Bid Express, Bid books, which contain bid
39 proposal sheets necessary to submit a bid, may be obtained at the mandatory pre-bid
40 conference. Paper bids shall be submitted in a sealed, opaque envelope addressed
41 to the Department and labeled with the name of the bidder, the name of the project,
42 the contract number, and the statement 'Do Not Open Until The Time Of Bid Opening.'
43

44 Electronic copies of the Specification books are made available solely for the
45 convenience of prospective bidders on the Contract, and are not considered part of
46 the contract documents. No representation or warranty is made, either express or
47 implied, with regard to the accuracy or suitability of said electronic copies for any
48 purpose whatsoever. Utilization or viewing of said electronic copies shall constitute
49 implicit acknowledgement and acceptance of the provisions of this paragraph.
50

1 A Summary of Bids for the apparent low bidder will be posted at the above listed
2 website, generally within 24 hours of the Bid Opening.

3
4 All questions regarding this contract shall be in writing and shall be received by the
5 Department of Public Works and Planning, Design Division, no later than 2:00 P.M.
6 on the seventh (7th) calendar day before bid opening. Any questions received after
7 this deadline will not receive a response unless the Department of Public Works and
8 Planning elects to issue an addendum to revise the bid opening date. In the event
9 that the bid opening date is revised, the deadline for questions will be extended to no
10 later than 2:00 P.M. on the seventh (7th) calendar day before the revised bid opening
11 date. Questions shall be submitted on the "CONTRACTOR REQUEST FOR
12 CLARIFICATION" form provided on the project website at:

13
14 [http://www.co.fresno.ca.us/departments/public-works-and-planning/contractor-bids-
15 plan-holders-electronic-plans-bid-results/20-02-j-20-03-j-general-
16 engineering/request-for-clarification-20-j-03-20-j-04-20-j-05-general-building](http://www.co.fresno.ca.us/departments/public-works-and-planning/contractor-bids-plan-holders-electronic-plans-bid-results/20-02-j-20-03-j-general-engineering/request-for-clarification-20-j-03-20-j-04-20-j-05-general-building)
17

18 Any changes to, or clarification of, the Contract documents and specifications shall be
19 in the form of a written addendum issued to planholders of record. Questions that
20 prompt a change or clarification shall be included in the addendum with the
21 subsequent answer.

22
23 Any oral explanation or interpretations given to this project are not binding.

24
25 Bidders will submit one (1) bid that will be considered for three potential Contracts
26 being offered.

27
28 Bidders will bid three (3) sets of Adjustment Factors to be applied to the Unit Prices.

- 29 • One set of Adjustment Factors for County/State-funded projects.
- 30 • One set of Adjustment Factors for Federally-funded projects.
- 31 • One set of Adjustment Factors for County/State-funded projects in a Secure
32 Facility.

33
34 Each set of Adjustment Factors will include one Adjustment Factor for performing work
35 during Normal Working Hours and a second Adjustment Factor for performing work
36 during Other Than Normal Working Hours. All Adjustment Factors apply to every task
37 in the Construction Task Catalog®.

38
39 The County intends to award a contract to each of the three (3) lowest responsible
40 bidders. One proposal must be submitted by each bidder wishing to bid for one of the
41 three contracts in the Class B license category. Bids will be compared, for purposes
42 of identifying the apparent low bidder for proposed award of the contract, on the basis
43 of the Award Criteria Figure. The Award Criteria Figure is the sum of the weighted
44 Adjustment Factors.

45
46 The Construction Task Catalog® is priced at a net value of 1.0000. The bid shall be
47 an increase to (e.g., 1.1000) or decrease to (e.g., 0.9500) the Unit Prices listed in the
48 Construction Task Catalog®. Bidders who submit separate Adjustment Factors for
49 separate Unit Prices will be considered non-responsive and their bid will be rejected.
50

1 The Owner selected The Gordian Group's (Gordian) Job Order Contracting (JOC)
2 System for their JOC program. The Gordian JOC System includes Gordian's
3 proprietary eGordian® and Gordian Cloud JOC Applications and Construction Task
4 Catalog®, which shall be used by the Contractor to prepare and submit Job Order
5 Proposals, subcontractor lists, and other requirements specified by the Owner. The
6 Contractor shall be required to execute Gordian's JOC System License and Fee
7 Agreement, and pay a 1% JOC System License Fee to obtain access to the Gordian
8 JOC Solution.

9
10 Each bid shall be submitted in a sealed envelope addressed to the Department and
11 labeled with the name of the bidder, the name of the project, the contract number, and
12 the statement 'Do Not Open Until The Time Of Bid Opening.'

13
14 Bid security in the amount \$25,000, and in the form of a bid bond issued by an admitted
15 surety insurer licensed by the California Department of Insurance, cash, cashier's
16 check or certified check shall accompany the bid. Bid security shall be made in favor
17 of the County of Fresno. You must either attach an electronic bid bond or provide an
18 original bid bond (or other form of bid security authorized by Public Contract Code
19 Section 20129(a)), prior to the bid opening, in accordance with the detailed directions
20 set forth in Section 1.04 ("PREPARATION OF PROPOSALS") of the Instructions to
21 Bidders.

22
23 No contract will be awarded to a contractor who has not been licensed in accordance
24 with the provisions of the Contractors State License Law, California Business and
25 Professions Code, Division 3, Chapter 9, as amended, or whose bid is not on the
26 proposal form included in the contract document. A valid California Contractor's
27 License, **Class B, (General Building)** is required for this project.

28
29 No contractor or subcontractor may be listed on a bid proposal for a public works
30 project unless registered with the Department of Industrial Relations pursuant to Labor
31 Code section 1725.5 [with limited exceptions from this requirement for bid purposes
32 only under Labor Code section 1771.1(a)].

33
34 No contractor or subcontractor may be awarded a contract for public work on a public
35 works project unless registered with the Department of Industrial Relations pursuant
36 to Labor Code section 1725.5.

37
38 The work performed under this contract is subject to compliance monitoring and
39 enforcement by the Department of Industrial Relations.

40
41 This contract is subject to state contract nondiscrimination and compliance
42 requirements pursuant to Government Code, Section 12990.

43
44 Pursuant to Section 1773 of the Labor Code, the general prevailing wage rates in the
45 county, or counties, in which the work is to be done have been determined by the
46 Director of the California Department of Industrial Relations. These wages are set
47 forth in the General Prevailing Wage Rates for this project, available at County of
48 Fresno, Department of Public Works and Planning, 2220 Tulare Street, Sixth Floor,
49 Fresno CA 93721-2104 and available from the California Department of Industrial
50 Relations' Internet web site at <http://www.dir.ca.gov/DLSR/PWD>. Future effective
51 general prevailing wage rates, which have been predetermined and are on file with

1 the California Department of Industrial Relations are referenced but not printed in the
2 general prevailing wage rates.

3
4 The successful bidder shall furnish a faithful performance bond in the amount of 100
5 percent of the Maximum Contract Value, a payment bond in the amount of 100 percent
6 of the Maximum Contract Value, and One Year Warranty Bond in the amount of 10
7 percent of the Maximum Contract Value. Each bond specified in this Notice (bid bond,
8 faithful performance bond and payment bond) shall meet the requirements of all
9 applicable statutes, including but not limited to those specified in Public Contract Code
10 section 20129 and Civil Code section 9550.

11
12 Each bond specified in this Notice shall be issued by a surety company designated as
13 an admitted surety insurer in good standing with and authorized to transact business
14 in this state by the California Department of Insurance, and acceptable to the County
15 of Fresno. Bidders are cautioned that representations made by surety companies will
16 be verified with the California Department of Insurance. Additionally, the County of
17 Fresno, in its discretion, when determining the sufficiency of a proposed surety
18 company, may require the surety company to provide additional information supported
19 by documentation. The County generally requires such information and
20 documentation whenever the proposed surety company has either a Best's Key Rating
21 Guide of less than **A** and a financial size designation of less than **VIII**. Provided,
22 however, that the County expressly reserves its right to require all information and
23 documentation to which the County is legally entitled from any proposed surety
24 company.

25
26 Pursuant to Public Contract Code Section 22300, substitution of securities for any
27 moneys withheld by the County of Fresno to ensure performance under the contract
28 shall be permitted.

29
30 The Board of Supervisors reserves the right to reject any or all bids.

31
32 Board of Supervisors, County of Fresno

33
34 Jean Rousseau, County Administrative Officer

35
36 Bernice E. Seidel, Clerk to the Board

37
38 Issue Date: August 11, 2020

39
40 END OF SECTION
41
42
43
44
45
46
47
48

1 INSTRUCTIONS TO BIDDERS

2
3 1.01 EXPLANATION TO BIDDERS

4
5 An explanation desired by bidders regarding the meaning or interpretation of the bid
6 documents must be requested in writing no later than 10 days prior to the bid opening.
7 Oral explanations given before the award of the contract will not be binding. Any
8 interpretation made will be in the form of an addendum to the bid documents, said
9 addendum will only be issued by the County's Director of Public Works and Planning
10 ("Director"). A copy of the addendum will be furnished to each registered holder of a
11 set of the bid documents and its receipt shall be acknowledged on the Bid Proposal.
12 Each addendum will also be posted on the Public Works and Planning website at
13 <http://www.co.fresno.ca.us/planholders>.

14
15
16 1.02 EXAMINATION OF CONSTRUCTION TASK CATALOG®, TECHNICAL
17 SPECIFICATIONS AND CONTRACTING REQUIREMENTS

18
19 The bidder is required to examine carefully the Construction Task Catalog®, Technical
20 Specifications, Contracting Requirements, and contract forms for submitting a
21 proposal. It is mutually agreed that the submission of a proposal shall be considered
22 prima facie evidence that the bidder has made such examination and is satisfied with
23 the requirements of the Construction Task Catalog®, Technical Specifications and the
24 Contracting Requirements, Division 00.

25
26
27 1.03 PROPOSAL GUARANTEE

28
29 The bidder shall furnish bid security, also referred to herein as a proposal guarantee,
30 consisting of a bid bond, cash, certified check, or cashier's check for \$25,000.00
31 ("Proposal Guarantee").

32
33 In case security is in the form of a certified check or cashier's check, the County
34 (referred to hereinafter as "Owner") may make such disposition of same as will
35 accomplish the purpose of which submitted. Checks deposited by unsuccessful
36 bidders will be returned as soon as practicable after the bid opening.

37
38
39 1.04 PREPARATION OF PROPOSALS

40
41 The County intends to award a contract to each of the three (3) lowest responsive and
42 responsible bidders. One bid proposal is required by each bidder wishing to bid for
43 one of the contracts.

44
45 The bidder shall prepare a proposal on the blank proposal form furnished by the
46 County (Owner). The bidder shall specify Adjustment Factors in both words and
47 figures for all six (6) types of Adjustment Factors.

1
2
3 Alternate or conditional bids will not be accepted.
4

5 The bidder's proposal shall be executed by the individual, by one or more partners of
6 the partnership, or by one or more of the officers of the corporation submitting it. If
7 the proposal is made by an individual, a name and post office address must be shown.
8 If made by a partnership, the name of each member of the partnership must be shown.
9 If made by a corporation, the proposal must show the name of the state under which
10 the corporation was chartered and the name of the president, vice president, secretary
11 and treasurer.
12

13 The required proposal guarantee must accompany the proposal.
14

15 16 1.05 SUBCONTRACTORS

17
18 No subcontractors shall be listed with the bid. Each individual Work Order Proposal
19 under the Contract shall include the subcontractor listing.
20

21 22 1.06 SUBMISSION OF PROPOSAL

23 24 A. Electronic Bid Submittal

25
26 The bidder has the option to submit the bid for this Project electronically. The
27 bidder must either attach an electronic bid bond or provide an original bid
28 bond (or other form of bid security authorized by Public Contract Code
29 Section 20129(a)), prior to the bid opening.
30

31 Bidders submitting online may use one of the accepted electronic sureties
32 (SurePath or Surety 2000) to submit their bid bond; or may submit cash,
33 cashier's check, certified check, or a bidder bond to Design Services at 2220
34 Tulare St., Seventh Floor, Fresno, CA 93721. Those submitting bid bonds
35 directly to Design Services must submit their bid bond:
36

- 37 1. Under sealed cover
- 38 2. Marked as a bid-bond
- 39 3. Identifying the contract number and the bid opening date on the cover
40

41 Note: While it is strongly encouraged that you comply with the above bidding
42 requirements if at all possible, it is acknowledged that this bid opening is
43 occurring during the COVID-19 State of Emergency in Fresno County, the
44 ongoing impact of which continues to be disruptive. If, as a result of the
45 emergency, you are unable to provide the original bid security or electronic
46 bid bond prior to the bid opening (and if your bid is otherwise appropriately
47 responsive to bid requirements), then staff will request that the Board of
48 Supervisors consider exercising its discretion to waive the bidding irregularity
49 (regarding the time of delivery of the bid security) **IF** you: **(1)** attach a
50 scanned copy of the original bid security to the Bid; and **(2)** provide for hand-

1 delivery of the original bid security to the County within 24 hours of the bid
2 opening. **If necessary, please e-mail**
3 DesignServices@fresnocountyca.gov or call (559) 600-9908, so that
4 **arrangements may be made to hand deliver your bid bond.**

5
6 B. Bid Submittal by Personal Delivery or by Mail

7
8 The bidder has the option to submit the bid by personal delivery or by mail.
9 All words and figures shall be written on the Proposal form in ink. In the case
10 of a discrepancy between the prices written in words and those written in
11 figures, the written words shall govern. The bidder's proposal shall be signed
12 in ink by the individual executing the bid on behalf of the bidder.

13
14 The required proposal guarantee must accompany the proposal.

15
16 Because of the above-referenced COVID-19 State of Emergency, bidders
17 submitting their bids by personal delivery may not have access to the County
18 Plaza Building; and in such case, the bidder will need to either e-mail
19 DesignServices@fresnocountyca.gov or call (559) 600-9908 sufficiently in
20 advance, so that arrangements may be made to allow County staff to come
21 downstairs to accept hand-delivery of your bid prior to the bid deadline.

22
23 Each proposal shall be submitted in a sealed envelope labeled to
24 clearly indicate the contract and contents.

25
26 When sent by mail, a sealed proposal must be addressed to the
27 Fresno County Department of Public Works and Planning, Office of the
28 Design Engineer, Seventh Floor, Fresno County Plaza Building, 2220
29 Tulare Street, Fresno, CA 93721. All proposals shall be filed prior to
30 the time and at the place specified in the NOTICE TO BIDDERS.
31 Proposals received after the time for opening of the proposals will be
32 returned to the bidder unopened.

33
34
35 1.07 IRREGULAR PROPOSALS

36
37 Proposals shall be considered irregular and may be rejected for the following reasons:

- 38
39 A. The proposal forms furnished by the Owner are not used or are altered.
40
41 B. There are unauthorized additions, conditional or alternate proposals or
42 irregularities of any kind which tend to make the proposal incomplete or
43 indefinite.
44
45 C. The bidder adds any provision reserving the right to accept or reject an award,
46 or to enter into a contract pursuant to an award.
47
48 D. The bid fails to contain the specified six (6) Adjustment Factors.
49

1
2 1.08 DISQUALIFICATION OF BIDDERS

3
4 Any one or more of the following causes may be considered as sufficient for
5 disqualification of a bidder and rejection of that bidder's proposal:

- 6
7 A. More than one proposal for the same work from an individual, partnership or
8 corporation.
9
10 B. Evidence of collusion among bidders. Participants in such collusion will receive
11 no recognition as bidders for any future work of the Owner until such participant
12 shall have been reinstated as a qualified bidder.
13
14 C. Lack of competency and adequate machinery, plant or other equipment, as
15 may be revealed by financial statement if required.
16
17 D. Unsatisfactory performance record as shown by past work for the Owner,
18 judged from the standpoint of workmanship and progress.
19
20 E. Prior commitments or obligations which in the judgment of the Owner might
21 hinder or prevent the prompt completion of the work.
22
23 F. Failure to pay, or satisfactorily settle, all bills due for labor or materials on former
24 contracts in force at the time of letting the bid.
25
26 G. Failure to comply with any qualification regulation of the Owner.
27
28 H. Failure to furnish full amount of Proposal Guarantee with bid or failure to sign
29 bid bond.
30

31
32 1.09 WITHDRAWAL OR REVISION OF PROPOSALS

33
34 A bidder may, without prejudice, withdraw a proposal after it has been deposited,
35 provided the request for such withdrawal is received in writing before the time set for
36 opening proposals. The bidder may then submit a revised proposal provided it is
37 received prior to the time set for opening proposals.
38

39
40 1.10 PUBLIC OPENING OF PROPOSALS

41
42 Proposals will be opened and read publicly at the time and place indicated in the
43 Notice to Contractors. Bidders or their authorized agents are invited to be present.
44

45
46 1.11 BID PROTEST PROCEDURE / RELIEF OF BIDDER

- 47
48 A. BID PROTEST PROCEDURE

1
2 Any bid protest must be submitted in writing and delivered by the Bidder by
3 either of the following means: (1) via e-mail to
4 DesignServices@fresnocountyca.gov; or (2) via certified mail, return receipt
5 requested to the following address: Design Division, Department of Public
6 Works and Planning, 2220 Tulare Street, Sixth Floor, Fresno, CA 93721.
7

8 The bid protest must be received no later than 5:00 p.m. of the seventh (7th)
9 calendar day following the deadline for submittal of the specific bid
10 document(s) placed at issue by the protest. Any Bidder filing a protest is
11 encouraged to submit the bid protest via e-mail, because the deadline is
12 based on the Department's receipt of the bid protest. A bid protest
13 accordingly may be rejected as untimely if it is not received by the deadline,
14 regardless of the date on which it was postmarked. The Bidder's compliance
15 with the following additional procedures also is mandatory:
16

17 The initial protest document shall contain a complete statement of the
18 grounds for the protest, including a detailed statement of the factual basis
19 and any supporting legal authority.
20

21 The protest shall identify and address the specific portion of the document(s)
22 forming the basis for the protest.
23

24 The protest shall include the name, address and telephone number of the
25 person representing the protesting party.
26

27 The Department will provide a copy of the initial protest document and any
28 attached documentation to all other Bidders or proposers who appear to have
29 a reasonable prospect of receiving an award depending upon the outcome of
30 the protest.
31

32 The Board of Supervisors will issue a decision on the protest. If the Board of
33 Supervisors determines that a protest is frivolous, the party originating the
34 protest may be determined to be irresponsible and that party may be
35 determined to be ineligible for future contract awards.
36

37 The procedure and time limits set forth herein are mandatory and are the
38 Bidder's sole and exclusive remedy in the event of a bid protest. Failure by
39 the Bidder to comply with these procedures shall constitute a waiver of any
40 right to further pursue the bid protest, including the subsequent filing of a
41 Government Code Claim or legal proceedings.
42

43 B. RELIEF OF BIDDER

44

45 A bidder who claims a mistake in his bid must follow the procedures in Public
46 Contract Code Section 5100 et seq in seeking relief of their bid.
47
48

49 1.12 AWARD OF CONTRACT

50

51 The award of the contracts, if one or all are awarded, will be to the lowest responsible

1 bidders whose proposals comply with all the prescribed requirements. A successful
2 bidder will be awarded only one (1) contract from this Bid Solicitation. The awards if
3 made, will be within 54 calendar days after the opening of proposals. If the Owner
4 finds that it will be unable to award the contract within 54 calendar days after the
5 opening of proposals, the Director may request any or all bidders to extend all terms
6 of their proposal(s) to a specified date. Additional such extensions may possibly be
7 requested. If a bidder does not elect to extend the terms of his or her proposal beyond
8 the 54 calendar days following opening of proposals, or does not respond within 10
9 days to a request for an extension, that bidder's proposal will be deemed as having
10 expired 54 calendar days following opening of the proposals, and that bidder's
11 proposal will not be considered for award of the contract.

12
13 Successful bidders will be notified in writing, by letter mailed to the address shown on
14 the proposal, that his/her bid has been accepted and that he or she has been awarded
15 the contract.

16
17 The right is reserved to reject any or all proposals, to waive technicalities, to advertise
18 for new proposals, or to proceed to do this work otherwise, if in the judgment of the
19 awarding authorities the best interests of the Owner will be promoted thereby.

20 21 22 1.13 CANCELLATION OF AWARD

23
24 The awarding authority reserves the right to cancel the award of any contract at any
25 time before the execution of said contract by all parties without any liability against the
26 Owner.

27 28 29 1.14 CONTRACT BONDS

30
31 The bidder to whom the award is made shall, within ten days, enter into a written
32 contract with the Owner. The bidder shall forfeit the proposal guarantee in case he or
33 she does not follow through with the contract within ten days after the contract is
34 awarded.

35
36 The successful bidder shall furnish a faithful performance bond in the amount of 100
37 percent of the Maximum Contract Value and a payment bond in the amount of 100
38 percent of the Maximum Contract Value and a one year Warranty Bond in the amount
39 of 10 percent (10%) of the Maximum Contract Value. Said bonds shall be submitted
40 in triplicate.

41
42 The payment bond shall contain provisions such that if the Contractor or his/her
43 subcontractors shall fail to pay (a) amounts due under the Unemployment Insurance
44 Code with respect to work performed under the contract, or (b) any amounts required
45 to be deducted, withheld and paid over to the Employment Development Department
46 and to the Franchise Tax Board from the wages of the employees of the Contractor
47 and subcontractors pursuant to Section 13020 of the Unemployment Insurance Code

1 with respect to such work and labor, then the surety will pay these amounts. In case
2 suit is brought upon the payment bond, the surety will pay a reasonable attorney's fee
3 to be fixed by the court.
4

5 The contract form is attached hereto for the Contractor's information only. Execution
6 of the contract by bidders will not be required until after the bid award is made. Liability
7 and Workers Compensation Insurance requirements shall be as set forth in the
8 Agreement.
9

10 11 1.15 BUILDERS RISK INSURANCE 12

13 The Contractor shall not be required to obtain Builder's Risk insurance for the overall
14 contract. Builder's Risk insurance may be required on an individual Work Order. This
15 requirement will be identified in the Detailed Scope of Work and the cost will be
16 handled with a reimbursable line item in the Work Order Price Proposal.
17

18 19 1.16 POST-BID / PRE-AWARD INFORMATION AND REQUIREMENTS 20

- 21 A. Within eight calendar days after bid opening, the apparent low bidder shall
22 submit the following information to the Owner: any qualification statement, list
23 of projects, or other material required by specification documents for the
24 purpose of evaluating the competency and qualifications of the apparent low
25 bidder. Such qualification statements may be in addition to statements
26 required to be submitted with the proposal. Such qualification statements
27 shall be supplemented with additional material, if required by the Owner.
28

29 Upon completion of the bid evaluation process, qualification information
30 submitted by other than the apparent low bidder will be returned upon request.
31

- 32 B. The Owner selected The Gordian Group's (Gordian) Job Order Contracting
33 (JOC) System for their JOC program. The Gordian JOC System includes
34 Gordian's proprietary eGordian® and Gordian Cloud JOC Applications and
35 Construction Task Catalog®, which shall be used by the Contractor to prepare
36 and submit Job Order Proposals, subcontractor lists, and other requirements
37 specified by the Owner. The Contractor shall be required to execute
38 Gordian's **JOC System License and Fee Agreement**, and pay a 1% JOC
39 System License Fee to obtain access to the Gordian JOC Solution.
40

41
42 END OF SECTION
43
44

1 **BIDDERS' CHECKLIST (CAPITAL IMPROVEMENT CONTRACTS)**

2
3 Because of numerous technical irregularities resulting in rejected proposals for
4 projects, the following checklist is offered for the bidders' information and use in
5 preparing the proposal. This checklist is not to be considered as part of the
6 contract documents. Bidders are cautioned that deleting or not submitting a form
7 supplied in the bid documents (even if the form does not require signature) may
8 result in an irregular bid.

9
10 **P-2, PROPOSAL SHEET (Section 00 42 13)**

11
12 Bidder name on each sheet. Adjustment Factor for each type listed. Make no
13 additions such as "plus tax", "plus freight", or conditions such as "less 2% if paid
14 by 15th". Use ink or typewriter. Acknowledge addenda.

15
16 **P-3, SUBCONTRACTOR LIST**

17
18 Not Applicable for Job Order Contract bids. Subcontractor Listings shall be
19 required as part of a Work Order Proposal for each individual Work Order.

20
21 **P-4.1, BID SECURITY FORM - Read the Notices and Notes (Section 00 43 13)**

22
23 Indicate type of bid security provided.
24 Provide contract license information.

25
26 **State business name and if business is a:**

27 Corporation - list officers

28 Partnership - list partners

29 Joint Venture - list members

30 If Joint Venture members are corporations or partnerships, list their
31 officers or partners.

32 Individual - list Owner's name and firm name style

33
34 **Signature of Bidder –BID MUST BE SIGNED!**

35 Corporation - by an officer

36 Partnership - by a partner

37 Joint Venture - by a member

38 Individual - by the Owner

39 If signature is by a Branch Manager, Estimator, Agent, etc., the bid must be
40 accompanied by a power of attorney authorizing the individual to sign bids,
41 otherwise the bid may be rejected.

42
43 **Business Address - Firm's Street Address**

44
45 **Mailing Address - P.O. Box or Street Address**

1 **BID SECURITY (PROPOSAL GUARANTEE)**

2
3 \$25,000.00

4
5 Type of Bid Security:

6
7 Cash - Not recommended; cash is deposited in a clearing account and is
8 returned to bidders by County warrant. This process may take several
9 weeks.

10
11 Cashier's or Certified Checks - Will be held until the bid is no longer under
12 consideration. If submitted by a potential awardee, they will be returned
13 when the contract bonds are submitted and approved.

14
15 Bid Bonds - Must be signed by the bidder and by the attorney-in-fact for
16 the bonding company. Signature of attorney-in-fact should be notarized
17 and the bond should be accompanied by bonding company's affidavit
18 authorizing attorney-in-fact to execute bonds. An unsigned bid bond will
19 be cause for rejection. Electronic Bid bonds may be submitted with bid
20 submitted through Bid Express.

21
22 **P-4.2, NON COLLUSION DECLARATION (Section 00 45 19)**

23
24 Must be completed, signed, and returned with bid.

25
26
27 **OTHER**

28
29 If the bid forms have been removed from the specifications booklet, staple the
30 pages together.

31 Make sure the bid envelope is sealed and shows the contract name, bid package
32 and contract number.

33
34 If the bid is mailed, allow sufficient time for postal delivery prior to the bid closing
35 time. Bids received after the scheduled time will be returned unopened. Be sure
36 the statement "**DO NOT OPEN UNTIL TIME OF BID OPENING**", is on the
37 envelope.

38
39
40 END OF SECTION
41
42
43
44
45

1 **PROPOSAL TO THE BOARD OF SUPERVISORS**
2
3 **C O U N T Y O F F R E S N O**
4
5

6 Contract: **General Building - Job Order Contract**

7
8 Contract No.: # **20-J-03**
9 **20-J-04**
10 **20-J-05**

11
12 Various Funding Orgs.
13
14

15 If this proposal shall be accepted and the undersigned shall fail to contract, as aforesaid,
16 and to give the two bonds in the sums to be determined as aforesaid, with surety
17 satisfactory to the Awarding Authority, within ten (10) days after the award of the
18 contract, the Awarding Authority, at its option, may determine that the bidder has
19 abandoned the contract, and thereupon this proposal and the acceptance thereof shall
20 be null and void, and the forfeiture of such security accompanying this proposal shall
21 operate and the same shall be the property of the Owner.
22

23 The undersigned, as bidder, declares that all addenda issued with respect to this bid
24 have been received and incorporated into this Proposal. The bidder's signature on this
25 Proposal also constitutes acknowledgement of all addenda.
26

27 The undersigned, as bidder, declares that the only persons, or parties interested in this
28 proposal as principals are those named herein; that this proposal is made without
29 collusion with any other person, firm or corporation; that he has carefully examined the
30 Construction Task Catalog®, Technical Specifications and Contracting Requirements
31 and he proposes and agrees if this proposal is accepted, that he will contract with the
32 County of Fresno to provide all necessary machinery, tools, apparatus and other means
33 of construction, and to do all the work and furnish all the materials specified in the
34 contract in the manner and time therein prescribed, and according to the requirements
35 of the Owner as therein set forth.
36

37 The Contractor shall perform all Work required called for in the Detailed Scope of Work
38 of each individual Work Order issued under this Contract using the Construction Task
39 Catalog® and Technical Specifications incorporated herein. Contractor shall perform any
40 or all functions called for in the Contract Documents as specified in individual Work
41 Orders against this Contract for the Unit Prices specified in the Construction Task
42 Catalog® (CTC) and Non Pre-priced work multiplied by the following Adjustment Factors.
43

44 The Bidder shall set forth Adjustment Factors in the respective space provided below.
45 **See example below.** Failure to submit Adjustment Factors for all categories will result
46 in the Proposal being deemed non-responsive.
47

48 **The Other Than Normal Working Hours Adjustment Factors SHALL be EQUAL to**
49 **or GREATER THAN the corresponding Normal Working Hours Adjustment**
50 **Factors.**
51

52 The Contractor shall perform the Tasks required by each individual Job Order
53 using the following Adjustment Factors. When submitting Work Order Price

Contract No. #20-J-03
20-J-04
20-J-05

Proposal
00 42 13-1

JOB ORDER CONTRACTS

1 Proposals related to specific Work Orders, the Contractor shall utilize one or
2 more of the Adjustment Factors applicable to the Work being performed
3 provided on the Schedule of Adjustment Factors below, as applicable.
4
5

6 **Example**

7
8
9
10
11
12
13
14
15

11 One Point Two One Zero Two
12 (Written in words)

1 2 1 0 2

(Specify to four (4) decimal places)

1 **BIDDER:** _____

2
3 **Schedule of Adjustment Factors**

4
5 In case of a discrepancy between words and figures the words shall prevail. Use clearly
6 legible words and figures

7
8
9 1. **County/State-funded Projects – Normal Working Hours** (7:00am to 5:00pm
10 Monday through Friday)

11 _____
12
13 (Written in words)

14 .

(Specify to four (4) decimal places)

15 2. **County/State-funded Projects – Other Than Normal Working Hours** (5:00pm to
16 7:00am Monday through Friday, and all day
17 Saturday, Sunday, and Holidays)

18 _____
19
20 (Written in words)

21 .

(Specify to four (4) decimal places)

22 3. **Federally-funded Projects – Normal Working Hours** (7:00am to 5:00pm Monday
23 through Friday)

24 _____
25
26 (Written in words)

27 .

(Specify to four (4) decimal places)

28
29 4. **Federally-funded Projects – Other Than Normal Working Hours** (5:00pm to
30 7:00am Monday through Friday, and all day
31 Saturday, Sunday, and Holidays)

32 _____
33
34 (Written in words)

35 .

(Specify to four (4) decimal places)

36 5. **County/State-funded Projects in Secure Facilities – Normal Working Hours**
37 (7:00am to 5:00pm Monday through Friday)

38 _____
39
40 (Written in words)

41 .

(Specify to four (4) decimal places)

42
43 6. **County/State-funded Projects in Secure Facilities – Other Than Normal**
44 **Working Hours** (5:00pm to 7:00am Monday through Friday, and all day
45 Saturday, Sunday, and Holidays)

46 _____
47
48 (Written in words)

49 .

(Specify to four (4) decimal places)

1
2
3

BIDDER: _____

Acknowledgement of Addendum:

Addendum No. _____ Dated _____ Addendum No. _____ Dated _____

Addendum No. _____ Dated _____ Addendum No. _____ Dated _____

4
5
6
7
8

Award Criteria Figure

9 Transfer the number on Line 13 from the Award Criteria Figure Calculation below
10 to the space provided below constituting the Bidder's Award Criteria Figure.

11 Transfer the number and write the words.

12
13
14
15 _____

(Written in clearly legible words)

16 .

(Specify to four (4) decimal places in legible figures)

17
18
19
20

Award Criteria Figure Calculation

The weighted multipliers in lines 2, 4, 6, 8, 10, and 12 below are for the purpose of calculating an Award Criteria Figure only. No assurances are made by the Owner that Work will be ordered under the Contract in a distribution consistent with the weighted percentages. The Award Criteria Figure is only used for the purpose of determining the lowest Bidder.

The Owner Reserves The Right To Revise All Arithmetic Errors In the Calculation of the Award Criteria Figure For Correctness.

Instructions To Bidder: Specify lines 1 through 13 to four (4) decimal places. Use conventional rounding methodology (i.e., if the number in the 5th decimal place is 0-4, the number in the 4th decimal remains unchanged; if the number in the 5th decimal place is 5-9, the number in the 4th decimal is rounded upward).

Line 1.	County/State-funded Projects – Normal Working Hours	1.	
Line 2.	Multiply Line 1 by 50%		2.
Line 3.	County/State-funded Projects – Other Than Normal Working Hours	3.	
Line 4.	Multiply Line 3 by 15%		4.
Line 5.	Federally-funded Projects – Normal Working Hours	5.	
Line 6.	Multiply Line 5 by 5%		6.
Line 7.	Federally-funded Projects – Other Than Normal Working Hours	7.	
Line 8.	Multiply Line 7 by 5%		8.
Line 9.	County/State-funded Projects in Secure Facilities – Normal Working Hours	9.	
Line 10.	Multiply Line 9 by 15%		10.
Line 11.	County/State-funded Projects in Secure Facilities – Other Than Normal Working Hours	11.	
Line 12.	Multiply Line 11 by 10%		12.
Line 13.	Add Lines 2, 4, 6, 8, 10 and 12. This is the Award Criteria Figure:		

END OF PROPOSAL FORM

END OF SECTION

BID SECURITY FORM

CONTRACT: JOB ORDER CONTRACTS

CONTRACT: #20-J-03, 20-J-04, 20-J-05, Class B

Accompanying this proposal is security (check one only) in amount equal to \$25,000.00:

Bid Bond (); Certified Check (); Cashier's Check (); Cash (\$_____)

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

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

FIRM NAME _____

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

Class _____ License No. _____ Expires _____

Department of Industrial Relations Registration No: _____

Signature of Bidder

Dated

NOTE: If bidder is a corporation, the legal name of the corporation shall be set forth above together with the signature of the officer or officers authorized to sign contracts on behalf of the corporation; if bidder is a co-partnership, the true name of the firm shall be set forth above together with the signature of the partner or partners authorized to sign contracts on behalf of the co-partnership; and if bidder is an individual, his signature shall be placed above. If signature is by an agent, other than an officer of a corporation or a member of a partnership, a Power of Attorney must be on file with the Owner prior to opening bids or submitted with the bid; otherwise, the bid will be disregarded as irregular and unauthorized.

BUSINESS ADDRESS: _____
Zip Code

MAILING ADDRESS: _____
Zip Code

BUSINESS PHONE: (_____) _____ **FAX NUMBER:** (_____) _____

EMAIL: _____

END OF SECTION

1 **CONTRACT:** JOB ORDER CONTRACTS

2
3 **CONTRACT:** 20-J-03, 20-J-04, 20-J-05, Class B

4
5 To the Board of Supervisors, County of Fresno:

6
7
8 **NONCOLLUSION DECLARATION**

9
10 **TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID***

11
12 The undersigned declares:

13
14 I am the _____ of
15 (Owner, Partner, Corporate Officer (list title), Co-Venturer)

16
17 _____, the party
18 making the foregoing bid.

19
20 The bid is not made in the interest of, or on behalf of, any undisclosed person,
21 partnership, company, association, organization, or corporation. The bid is
22 genuine and not collusive or sham. The bidder has not directly or indirectly induced
23 or solicited any other bidder to put in a false or sham bid. The bidder has not
24 directly or indirectly colluded, conspired, connived, or agreed with any bidder or
25 anyone else to put in a sham bid, or refrain from bidding. The bidder has not in any
26 manner, directly or indirectly, sought by agreement, communication, or conference
27 with anyone to fix the bid price of the bidder or any other bidder, or to fix any
28 overhead, profit, or cost element of the bid price, or of that of any other bidder. All
29 statements contained in the bid are true. The bidder has not, directly or indirectly,
30 submitted his or her bid price or any breakdown thereof, or the contents thereof,
31 or divulged information or data relative thereto, to any corporation, partnership,
32 company, association, organization, bid depository, or to any member or agent
33 thereof, and has not paid, and will not pay, any person or entity for that purpose.

34
35 Any person executing this declaration on behalf of a bidder that is a corporation,
36 partnership, joint venture, limited liability company, limited liability partnership, or
37 any other entity, hereby represents that he or she has full power to execute, and
38 does execute, this declaration on behalf of the bidder.

39
40 I declare under penalty of perjury under the laws of the State of California that the
41 foregoing is true and correct and that this declaration is executed on _____,
42 2020,

43
44 at _____.”
45 [city] [state]

46
47 _____
(Signature)

48
49 (See Title 23 United States Code Section 112; Calif Public Contract Code Section
50 7106)

1 *NOTE: Completing, signing, and returning the Non-Collusion Declaration is a
2 required part of the Proposal. Bidders are cautioned that making a false
3 certification may subject the certifier to criminal prosecution.
4
5

END OF SECTION

Contract No.: #20-J-03
20-J-04
20-J-05

Non-Collusion Declaration
00 45 19-2

JOB ORDER CONTRACTS

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53

AGREEMENT

THIS AGREEMENT made at Fresno, in Fresno County, California, by and between _____, hereinafter "Contractor", and the County of Fresno, hereinafter "Owner".

WHEREAS: This Agreement, together with other Contract Documents (as defined hereinbelow), shall establish an indefinite quantity Job Order Contract pursuant to which Contractor shall perform an ongoing series of individual projects at different locations throughout the County of Fresno. The construction work and services performed by Contractor under this Agreement shall be carried out pursuant to individual Work Orders. All capitalized terms not defined in this Agreement shall have the meanings set forth in the General Conditions referenced hereinbelow and incorporated herein by reference.

WITNESSETH, the Contractor and the Owner, for the consideration hereinafter named, agree as follows:

ARTICLE I. The Contractor agrees to furnish all labor, equipment 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, materialmen, subcontractors, artisans, machinists, teamsters, and laborers required for **Job Order Contract No. 20-J-03, also referred to herein as the "Contract"**.

20-J-04

20-J-05

All goods and services provided shall be in strict compliance with the Construction Task Catalog®, Technical Specifications and Contracting Requirements therefore prepared by the Director of the Fresno County Department of Public Works and Planning and his authorized representatives, hereinafter "Project Manager", and other contract documents relating thereto.

ARTICLE II. The Contractor and the Owner agree that the Advertisement (Notice to Bidders), the Wage Scale, the Proposal hereto attached, the Instructions to Bidders, the General Conditions of the contract, the Technical Specifications, the Construction Task Catalog® and the Addenda and Bulletins thereto, the Contract Bonds and Certificates of Liability and Workers Compensation Insurance, and the Work Orders, together with this Agreement, form the Contract Documents, and they are as fully a part of the contract as if hereto attached or herein repeated. But no part of said specifications that is in conflict with any portion of this Agreement, or that is not actually descriptive of the work to be done thereunder, or of the manner in which the said work is to be executed, shall be considered as any part of this Agreement, but shall be utterly null and void, and anything that is expressly stated, delineated or shown in or upon the specifications or Detailed Scope of Work shall govern and be followed, notwithstanding anything to the contrary in any other source of information or authority to which reference may be made.

ARTICLE III. The Contractor agrees that the work under the contract shall be completed as determined by the Owner as set forth in the individual Work Orders. Time of performance shall be deemed as of the essence hereof and it is agreed that actual damages to the Owner from any delay in completion beyond the date provided for herein,

1 or any extension thereof until the work is completed or accepted, shall be all provable
2 damages plus liquidated damages as identified in the individual Work Orders ranging
3 from **Two Hundred Fifty and 00/100 DOLLARS (\$250.00) to Five Thousand and**
4 **00/100 DOLLARS (\$5000.00)** per day; that said liquidated damage was arrived at by a
5 studied estimate of loss to the Owner in the event of a delay considering the following
6 damage items which are extremely difficult or impossible to determine: Additional
7 construction expense resulting from delay of completion including, but not limited to,
8 engineering, inspection, rental and utilities; provided, however, the Owner may
9 conditionally accept the work and occupy and use the same if there has been such a
10 degree of completion as shall in its opinion render the same safe, fit and convenient for
11 the use for which it is intended and in such cases the Contractor and Surety shall not be
12 charged for liquidated damages for any period subsequent to such conditional
13 acceptance and occupation by the Owner but Owner may assess actual damages
14 caused by failure of total completion during such period. The time during which the
15 Contractor is delayed in said work by the acts or neglects of the Owner or its employees
16 or those under it by contract or otherwise, or by the acts of God which the Contractor
17 could not have reasonably foreseen and provided for, or by storms and inclement
18 weather which delays the work, or by any strikes, boycotts, or like obstructive action by
19 employee or labor organizations, or by any general lockouts or other defensive action
20 by employers, whether general, or by organizations of employers, shall be added to the
21 time for completion as aforesaid.
22
23

24 **ARTICLE IV. COMPENSATION:** The Owner agrees to make payments on account
25 thereof as provided in the General Conditions.
26

27 The Contract is an indefinite-quantity contract for construction work and services. The
28 Minimum Contract Value of Work Orders that the Contractor is guaranteed the
29 opportunity to perform under this Contract is \$25,000. The Maximum Contract Value is
30 \$2,000,000. At the discretion of the Owner and if deemed to be in the public interest, the
31 Maximum Contract Value of this Contract may be increased to the limit allowable by
32 Public Contract Code during the Term of the Agreement.
33

34 The Contractor shall perform all work required, necessary, proper for or incidental to
35 completing the Detailed Scope of Work called for in each individual Work Order issued
36 pursuant to this Contract for the Unit Prices set forth in the Construction Task Catalog®
37 and the following Adjustment Factors:
38

- 39 1. County / State-funded Projects – Normal Working Hours (7:00am to 5:00pm Monday
40 through Friday)
41
42
- 43 2. County / State-funded Projects – Other Than Normal Working Hours (5:00pm to
44 7:00am Monday through Friday, and all day Saturday, Sunday, and Holidays)
45
46
- 47 3. Federally-funded Projects – Normal Working Hours (7:00am to 5:00pm Monday
48 through Friday)
49
50
- 51 4. Federally-funded Projects – Other Than Normal Working Hours (5:00pm to 7:00am
52 Monday through Friday, and all day Saturday, Sunday, and Holidays)
53

1
2 5. County / State-funded Projects in Secure Facilities – Normal Working Hours (7:00am
3 to 5:00pm Monday through Friday)
4

5
6 6. County / State-funded Projects in Secure Facilities – Other Than Normal Working
7 Hours (5:00pm to 7:00am Monday through Friday, and all day Saturday, Sunday,
8 and Holidays)
9

10
11 **ARTICLE V. TERM:** The Term of the Job Order Contract shall be for one (1) year, or
12 when issued Work Orders totaling the Maximum Contract Value have been completed,
13 whichever occurs first. All Work Orders shall be issued, but not necessarily completed
14 within one calendar year after the commencement date of this Agreement.
15

16 All Work Orders for which a Notice to Proceed is issued by the County Contract Manager
17 during the term of this Contract shall be valid and in effect notwithstanding that the
18 Detailed Scope of Work may be performed, payments may be made, and the guarantee
19 period may continue, after the Contract Term has expired. All terms and conditions of
20 the Contract apply to each Work Order. No notices to proceed will be issued after 5:00,
21 P.M. on the final day of the Contract Term.
22

23
24 **ARTICLE VI.** The Contractor and the Owner agree that changes in this Agreement shall
25 become effective only when written in the form of an amendment approved and signed
26 by the Owner and the Contractor.
27

28 The Contractor and the Owner agree that the Owner shall have the right to request any
29 alterations, deviations, reductions or additions to the Detailed Scope of Work of the
30 individual Work Orders or specifications or any of them, and the amount of the cost
31 thereof shall be handled by issuance of a Supplemental Work Order.
32

33 This contract shall be deemed completed when the work of all individual Work Orders is
34 finished in accordance with all Contract Documents as amended by such changes. No
35 such change or modification shall release or exonerate any surety upon any guaranty or
36 bond given in connection with this contract.
37

38
39 **ARTICLE VII.** In the event of a dispute between the Owner or Project Manager and the
40 Contractor as to an interpretation of any of the specifications or as to the quality of
41 sufficiency of material or workmanship, the decision of the Project Manager shall for the
42 time being prevail and the Contractor, without delaying the job, shall proceed as directed
43 by the Project Manager without prejudice to a final determination by negotiation,
44 arbitration by mutual consent or litigation and should the Contractor be finally determined
45 to be either wholly or partially correct, the Owner shall reimburse him for any added costs
46 he may have incurred by reason of work done or material supplied beyond the terms of
47 the contract as a result of complying with the Project Manager's directions as aforesaid.
48 In the event the Contractor shall neglect to prosecute the work properly or fail to perform
49 any provisions of this contract, the Owner, after three days' written notice to the
50 Contractor, may, without prejudice to any other remedy it may have, make good such
51 deficiencies and may deduct the cost thereof from the payment then or thereafter due to
52 the Contractor, subject to final settlement between the parties as in this paragraph
53 hereinabove provided.

1 **ARTICLE XI. INDEMNIFICATION:** To the fullest extent permitted by law, Contractor
2 agrees to and shall indemnify, save, hold harmless and at County's request, defend
3 County and its officers, agents and employees, and the Project Manager and their
4 respective officers, agents and employees, from any and all costs and expenses,
5 attorney fees and court costs, damages, liabilities, claims and losses occurring or
6 resulting to County, or the Project Manager in connection with the performance, or failure
7 to perform, by Contractor, its officers, agents or employees under this Agreement, and
8 from any and all costs and expenses, attorney fees and court costs, damages, liabilities,
9 claims and losses occurring or resulting to any person, firm or corporation who may be
10 injured or damaged by the performance, or failure to perform, of Contractor, its officers,
11 agents or employees under this Agreement. In addition, Contractor agrees to indemnify
12 County for Federal, State of California and/or local audit exceptions resulting from non-
13 compliance herein on the part of Contractor.
14

15 In any and all claims against the County, the Project Manager, or any of their respective
16 officers, agents or employees, initiated by any employee of the Contractor, any
17 Subcontractor, anyone directly or indirectly employed by any of them or anyone for
18 whose acts any of them may be liable, the indemnification obligation set forth in the
19 immediately preceding paragraph shall not be limited in any way by any limitation on the
20 amount or type of damages, compensation or benefits payable by or for the Contractor
21 or any Subcontractor under workmen's compensation acts, disability benefit acts or other
22 employee benefit acts.
23

24
25 **ARTICLE XII. INSURANCE:** Without limiting the Owner's right to obtain indemnification
26 from Contractor or any third parties, Contractor, at its sole expense, in accordance with
27 the provisions of Section 2.40 of the General Conditions, shall maintain in full force and
28 effect the following insurance policies throughout the term of this Agreement, excepting
29 only those policies for which a longer term is specified:
30

31
32 A. Commercial General Liability Insurance, with scope and amount of coverage
33 as specified in Section 2.40 E.2 of the General Conditions.
34

35 B. Automobile Liability Insurance, with scope and amount of coverage as specified in
36 Section 2.40 E.2 of the General Conditions.
37

38 C. Professional Liability Insurance, with scope and amount of coverage as specified in
39 Section 2.40 E.3 of the General Conditions.
40

41 D. Worker's Compensation Insurance, with scope and amount of coverage as
42 specified in Section 2.40 E. 4 of the General Conditions.
43

44 The Certificate of Insurance shall be issued in triplicate, to the COUNTY OF FRESNO,
45 and all other participating agencies, whether or not said agencies are named herein,
46 who contribute to the cost of the work or have jurisdiction over areas in which the work
47 is to be performed and all officers and employees of said agencies while acting within
48 the course and scope of their duties and responsibilities.
49

50
51 **ARTICLE XIII. MISCELLANEOUS PROVISIONS:**
52

1 1. AUDITS AND INSPECTIONS: The CONTRACTOR shall at any time
2 during business hours, and as often as the OWNER may deem necessary, make
3 available to the OWNER for examination all of its records and data with respect to the
4 matters covered by this Agreement. The CONTRACTOR shall, upon request by the
5 OWNER, permit the OWNER to audit and inspect all of such records and data necessary
6 to ensure CONTRACTOR'S compliance with the terms of this Agreement.
7 If this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be
8 subject to the examination and audit of the Auditor General for a period of three (3) years
9 after final payment under contract (Government Code Section 8546.7).

10
11 2. INDEPENDENT CONTRACTOR.
12

13 In performance of the work, duties, and obligations assumed by CONTRACTOR
14 under this Agreement, it is mutually understood and agreed that CONTRACTOR,
15 including any and all of CONTRACTOR officers, agents, and employees will at all times
16 be acting and performing as an independent contractor, and shall act in an independent
17 capacity and not as an officer, agent, servant, employee, joint venture, partner, or
18 associate of the OWNER. CONTRACTOR and OWNER shall comply with all applicable
19 provisions of law and the rules and regulations, if any, of governmental authorities having
20 jurisdiction over matters of the subject thereof. Because of its status as an independent
21 contractor, CONTRACTOR shall have absolutely no right to employment rights and
22 benefits available to OWNER's employees. CONTRACTOR shall be solely liable and
23 responsible for providing to, or on behalf of, its employees all legally-required employee
24 benefits. In addition, CONTRACTOR shall be solely responsible and save OWNER
25 harmless from all matters related to payment of CONTRACTOR's employees, including
26 compliance with social security, withholding, and all other regulations governing such
27 matters. It is acknowledged that during the term of this Agreement, CONTRACTOR may
28 be providing services to others unrelated to the OWNER or to this Agreement.
29

30 3. DISCLOSURE OF SELF-DEALING TRANSACTIONS
31

32 This provision is only applicable if the CONTRACTOR is operating as a
33 corporation (a for-profit or non-profit corporation) or if during the term of the agreement,
34 the CONTRACTOR changes its status to operate as a corporation.
35

36 Members of the CONTRACTOR's Board of Directors shall disclose any self-
37 dealing transactions that they are a party to while CONTRACTOR is providing goods or
38 performing services under this agreement. A self-dealing transaction shall mean a
39 transaction to which the CONTRACTOR is a party and in which one or more of its
40 directors has a material financial interest. Members of the Board of Directors shall
41 disclose any self-dealing transactions that they are a party to by completing and signing
42 a Self-Dealing Transaction Disclosure Form, attached hereto as Exhibit A and
43 incorporated herein by reference, and submitting it to the OWNER prior to commencing
44 with the self-dealing transaction or immediately thereafter.
45

46
47 **ARTICLE XIV.** The Contractor represents that he has secured the payment of Workers
48 Compensation in compliance with the provisions of the Labor Code of the State of
49 California and Paragraphs B.3, C.3 and E.4 of Section 2.40 of the General Conditions,

1 and that he will continue so to comply with such statutory and contractual provisions for
2 the duration and entirety of the performance of the work contemplated herein.

3
4 This Contract, **20-J-**____, was awarded by the Board of Supervisors on
5 _____. It has been reviewed by the Department of Public Works and
6 Planning and is in proper order for signature of the Chairman of the Board of
7 Supervisors.

8
9
10 IN WITNESS WHEREOF, they have executed this Agreement this _____
11 day of _____, 2020

12
13
14
15
16
17 _____
18 (CONTRACTOR)

COUNTY OF FRESNO

(OWNER)

19
20
21 _____
22 (Taxpayer Federal I.D. No.)

23 By _____
24 _____
25 Title _____
26

By _____
Ernest Buddy Mendes, Chairman
of the Board of Supervisors of the
County of Fresno

27
28 **ATTEST:**
29 Bernice E. Seidel
30 Clerk of the Board of Supervisors
31 County of Fresno, State of
32 California
33

34 FOR ACCOUNTING USE ONLY
35 VARIOUS ORGS.
36 0001/8830/10000/7295
37 0001/43601150/10000/7295
38 0001/8852/10000/7295
39

By _____
Deputy

40
END OF SECTION

CONTRACT: JOB ORDER CONTRACT

CONTRACT NO: #20-J-03, 20-J-04, 20-J-05, Class B

(This guaranty shall be executed by the successful bidder in accordance with Section 2.32 of the General Conditions. The bidder may execute the guaranty on this page at the time of a task order is executed.)

SAMPLE GUARANTY FORM

To the Owner: County of Fresno

The undersigned guarantees the construction and installation of the following work included in this project:

ALL 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 each individual Work Order Detailed Scope of Work and specifications, due to any of the above causes, all within twelve (12) months after the date on which the Work Order under this contract 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 material 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 option to make any needed replacement or repairs itself or to have such replacements or repairs done by the undersigned. In the event the Owner elects to have said work performed by the undersigned, the undersigned agrees that the repairs shall be made and such materials as are necessary shall be furnished and installed 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 reasonably incurred by reason of said failure or refusal.

(Company)

By: _____

(Title)

Date: _____

END OF SECTION

CONTRACT: JOB ORDER CONTRACT

1

Contract No.: #20-J-03
20-J-04
20-J-05

Sample Guaranty
00 65 36-2

JOB ORDER CONTRACTS

1 GENERAL CONDITIONS

2
3
4 2.01 IDENTIFICATION OF CONTRACT

- 5
6 A. The Agreement shall be signed by the Contractor and the Owner.
7
8 B. The Contract Documents are defined in ARTICLE II of the Agreement.
9
10 C. The Contract Documents form the Contract for Construction (“Contract”). This
11 Contract represents the entire and integrated agreement between the parties
12 hereto and supersedes all prior negotiations, representations or agreements,
13 either written or oral. The Contract may be amended or modified only by a
14 Modification as defined above. The Contract Documents shall not be construed
15 to create any contractual relationship of any kind between the Architect or
16 Engineer of record and the Contractor, but the Architect or Engineer of record
17 shall be entitled to performance of the obligations of the Contractor intended
18 for their benefit and to enforcement thereof. Nothing contained in the Contract
19 Documents shall create any contractual relationship between the Owner and
20 any Subcontractor or Sub-subcontractor.
21

22
23 2.02 EXECUTION, CORRELATION, AND INTENT OF CONTRACT DOCUMENTS

- 24
25 A. The Contract Documents are complementary and anything called for by one
26 shall be supplied as if called for by all, providing it comes clearly within the
27 scope of the Contract.
28
29 B. In the event of conflicting provisions within the Job Order Contract, the
30 following order of precedence with item “1” representing the highest
31 precedence, for resolution of the conflict shall apply:
32
33 1. Agreement
34 2. Addenda (later takes precedence over earlier)
35 3. Work Orders (including Detailed Scopes of Work and Requests for
36 Proposals)
37 4. Project Manual
38 5. The Construction Task Catalog®
39 6. Technical Specifications
40
41 C. The intent of the Contract Documents is to include all items necessary for the
42 proper execution and completion of the Work. Words and abbreviations that
43 have well-known technical or trade meanings are used in the Contract
44 Documents in accordance with such recognized meanings.
45
46 D. Execution of the Contract by the Contractor is a representation that the
47 Contractor has visited the site, become familiar with the local conditions
48 under which the Work is to be performed, and has correlated personal
49 observations with the requirements of the Contract Documents.
50

- 1 E. All work and material shall be the best of the respective kinds specified or
2 indicated. Should any workmanship or materials be required that are not
3 directly or indirectly called for in the Contract Documents, but which
4 nevertheless are necessary for proper fulfillment of the obvious intent thereof,
5 said workmanship or materials shall be the same for similar parts that are
6 detailed, indicated or specified, and the Contractor shall understand the same
7 to be implied and provide for it in his/her tender as if it were particularly
8 described or delineated.
9

10
11 2.03 OWNERSHIP AND USE OF DOCUMENTS
12

13 All Contract Documents and copies thereof furnished shall remain the property of the
14 Owner. With the exception of one (1) contract set for each party to the Contract, such
15 documents are to be returned by Contractor or suitably accounted for to the Owner on
16 request at the completion of the Work. Submission or distribution to meet official
17 regulatory requirements or for other purposes in connection with the Project is not to
18 be construed as publication in derogation of the Architect's common law copyright or
19 other reserved rights. The Owner's use of the documents will not increase the
20 Architect's design liability beyond the Project and the site for which the design was
21 originally intended.
22

23
24 2.04 DEFINITIONS
25

26 The following words, or variations thereof, as used in these documents have meanings
27 as defined:
28

- 29 A. The Work - The Work comprises the completed construction required of the
30 Contractor by the Contract Documents, and includes all labor, materials,
31 equipment and services necessary to produce such construction, and all
32 materials, other permits and equipment incorporated or to be incorporated in
33 such construction.
34
35 B. The Project – The collective improvements to be constructed by the Contractor
36 pursuant to a Work Order, or a series of related Work Orders.
37
38 C. Owner - The County of Fresno, State of California, as represented by the
39 Fresno County Board of Supervisors and so named in the Agreement. The
40 term Owner means the Owner or the Owner's authorized representative (also
41 known as the Project Manager) for this project.
42
43
44 D. Architect of record – The Owner and his/her authorized representative, as
45 defined in Section 2.04C, or a duly California licensed Architect.
46
47 E. Contractor - When used in the General Conditions refers to person(s) or entity
48 (partnership or corporation) so named in Agreement and when used in the
49 body of the Specifications, refers to the Contractor for that specific work,
50 whether it be the General Contractor, Subcontractor, or other Contractor. The

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term Contractor means the Contractor or the Contractor's authorized representative.

- F. Subcontractor - Person, persons, entity, co-partnership or corporation having direct contract with 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.
- G. Sub-subcontractor – Person, persons, entity, co-partnership or corporation having a direct or indirect contract with a Subcontractor to perform any of the Work at the site (i.e. a second-tier, third-tier or lower-tier Subcontractor). The term Sub-subcontractor means a Sub-subcontractor or an authorized representative thereof.
- H. Adjustment Factor – A competitively bid adjustment to be applied to the unit prices listed in the Construction Task Catalog®.
- I. Construction Task Catalog®- A comprehensive listing of construction related tasks together with a specific unit of measure and a published Unit Price.
- J. Detailed Scope of Work – A document setting forth the work the Contractor is obligated to complete for a particular Work Order.
- K. Work Order – A written order issued by the Owner, such as a Purchase Order, requiring the Contractor to complete the Detailed Scope of Work within the Work Order Completion Time for the Work Order Price. A project may consist of one or more Work Orders.
- L. Work Order Completion Time – The time within which the Contractor must complete the Detailed Scope of Work.
- M. Work Order Price – The amount a Contractor will be paid for completing a Work Order.
- N. Joint Scope Meeting – A site meeting attended by the Owner and Contractor to discuss the work before the Detailed Scope of Work is finalized.
- O. Maximum Contract Value - The maximum value of Work Orders that the Contractor may receive under this Contract.
- P. Minimum Contract Value – The minimum value of Work Orders that the Contractor is guaranteed the opportunity to perform under this Contract.
- Q. Non Pre-priced Task – An item of work required by the Detailed Scope of Work but not included in the Construction Task Catalog®.
- R. Normal Working Hours – Includes the hours from 7:00 a.m. to 5:00 p.m. Monday through Friday, except for Owner holidays.

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- S. Notice to Proceed - A written notice issued by the Owner directing the Contractor to proceed with construction activities to complete the Work Order.
- T. Other than Normal Working Hours – Includes the hours of 5:00 p.m. to 7:00 a.m. Monday through Friday and all day Saturday, Sunday, and Owner Holidays.
- U. Pre-priced Task – An item of work included in the Construction Task Catalog® for which a Unit Price is given.
- V. Price Proposal – A price proposal prepared by the Contractor that includes the Pre-priced Tasks, Non Pre-priced Tasks, appropriate quantities and appropriate Adjustment Factors required to complete the Detailed Scope of Work.
- W. Proposal Package – A set of documents including at least: (1) a Price Proposal; (2) a proposed construction schedule; (3) a list of proposed subcontractors; (4) sketches, drawings, or layouts; and (5) technical data or information on proposed materials or equipment.
- X. Request for Proposal – A written request to the Contractor to prepare a Proposal for the Detailed Scope of Work referenced therein.
- Y. Supplemental Work Order - A Work Order issued to add or delete Work from an existing, related Work Order.
- Z. Technical Specifications – Contains the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.
- AA. Unit Price - The price published in the Construction Task Catalog® for a specific construction or construction related work task. Unit Prices for new Pre-priced Tasks can be established during the course of the Contract and added to the Construction Task Catalog®. Each Unit Price is comprised of labor, equipment, and material costs to accomplish that specific Pre-priced Task.
- BB. Days- All days shall be measured in calendar days unless specifically noted otherwise in these documents or referenced codes.
- CC. Year- One year shall be measured in terms of 365 calendar days.

2.05 SPECIFICATIONS AND DRAWINGS

- A. Precedence – Anything mentioned in the Specifications and not shown on the Drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. Subject to Section 2.02, 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

1 dimensions shall take precedence over scaled measurement. Where figures
2 are not shown, scale measurements shall be followed but shall in all cases be
3 verified by measuring actual conditions of Work already in place. In cases of
4 discrepancy concerning quality and application of materials and non-technical
5 requirements over materials, the specifications shall take precedence over
6 Drawings.

7
8 B. Division of Specifications - For convenience of reference and to facilitate the
9 letting of independent contracts, this specification may be separated into
10 certain sections; such separation shall not operate to oblige the Owner,
11 Architect or Professional Consultant to establish the limits of any contract
12 between the Contractor and Sub-Contractor each of whom shall depend upon
13 his/her own contract stipulations. The General Conditions apply with equal
14 force to all work, including extra work.

15
16 C. Governing Factors - Dimensions figured on drawings shall be followed in every
17 case in preference to scale of drawings.

18
19 D. Discrepancies - Should the Contractor, at any time, discover a discrepancy in
20 a drawing or specification, or any variation between dimensions on drawings
21 and measurements at site, or any lacking of dimensions or other information,
22 he/she shall report at once to the Project Manager requesting clarification and
23 shall not proceed with the work affected thereby until such clarification has
24 been made. If the Contractor proceeds with work affected by such
25 discrepancies, without having received such clarification, he/she does so at
26 his/her own risk. Any adjustments involving such circumstances made by the
27 Contractor, prior to approval by the Project Manager, shall be at the
28 Contractor's risk and the settlement of any complications or disputes arising
29 therefrom shall be at the Contractor's sole expense and Contractor shall
30 indemnify, hold harmless and defend Owner, Owner's representatives, and
31 Project Manager from any liability or loss with respect to said adjustments.

32
33 E. Scope of Drawings – When drawings are included in the Detailed Scope of
34 Work, the drawings shall be held to determine the general character of the
35 Work as well as its details. Parts not detailed shall be constructed in
36 accordance with best standard practice for work of this class, so as to afford
37 the requisite strength and logically complete the parts they compose. Where
38 it is obvious that a drawing illustrates only a part of a given work or of a number
39 of items, the remainder shall be deemed repetitious and so construed. The
40 Contractor shall be responsible for all errors made in using any drawings which
41 have been superseded.

42
43 F. Shop Drawings, Product Data and Samples –

44
45 1. Shop Drawings are drawings, diagrams, schedules and other data
46 specially prepared for the Work by the Contractor or any Subcontractor,
47 manufacturer, supplier or distributor to illustrate some portion of the
48 Work. Product Data are illustrations, standard schedules, performance
49 charts, instructions, brochures, diagrams and other information
50 furnished by the Contractor to illustrate a material, product or system
51 for some portion of the Work. Samples are physical examples that

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illustrate materials, equipment or workmanship, and establish standards by which the work will be judged.

2. The Contractor shall prepare, review, approve and submit to the Project Manager, with reasonable promptness and in such sequence as to cause no delay in the Work or in the work of the Owner or any separate contractor, all Shop Drawings, Product Data and Samples required by the Contract Documents.
3. By preparing, approving and submitting Shop Drawings, Product Data and Samples, the Contractor represents that the Contractor has determined and verified all materials, field measurements and field construction criteria related thereto, or will do so with reasonable promptness, and has checked and coordinated the information contained within such submittals with the requirements of the Work, the Project, the Work Order and the Contract Documents.
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, unless the Contractor has specifically informed the Project Manager in writing of such deviation at the time of submission and the Architect has reviewed 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 review of them.
5. 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. Owner may elect to have an independent certification performed at its own expense. The Owner shall have final approving authority for performance-based items.
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. 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.
8. 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/her own use as he/she may require for the progress of the Work.

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9. The term "Shop Drawings" as used herein also includes but is not limited to fabrication, erection, layout and setting drawings, manufacturer's standard drawings, descriptive literature, catalogs, brochures, performance and test data, wiring and control diagrams, all other drawings and descriptive data pertaining to materials, equipment, piping, duct and conduit systems, and methods of construction as may be required to show that the materials, equipment or systems and the positions and layout of each conform to the Contract requirements. As used herein the term "manufactured" applies to standard units usually mass-produced, and the term "fabricated" means items specifically assembled or made out of selected materials to meet individual design requirements. Shop Drawings shall establish the actual detail of all manufactured or fabricated items; indicate proper relation to adjoining work; amplify design details of mechanical and electrical equipment in proper relation to physical spaces in the structure; and incorporate minor changes of design or construction to suit actual conditions.
10. Drawings: Following Contractor's review and approval, Contractor shall submit to the Project Manager for approval four (4) minimum to six (6) maximum prints and/or pdf submission of the same information via email. (Required delivery methods and quantities of submittals will be determined at the time of the Pre-Construction Meeting). The Project Manager will check the submittal to see if it is complete. If complete, the Project Manager will forward the drawings to the Owner and the Architect. The Architect and Owner will check the drawings and note Architect and Owner comments and affix a stamp to the drawings indicating the status of acceptance, and will return same to the Project Manager, each retaining prints for his/her records. The Architect or his/her consultants, as applicable, will review the Shop Drawings; mark the prints with required revisions; stamp the prints and indicate "No Exceptions Taken", "Make Corrections Noted", "Revise and Resubmit", "Submit Specified Item", or "Rejected", and return the prints. The Project Manager will return the prints to the Contractor. The Contractor shall then print and distribute the appropriate number of copies to his/her job personnel as required. If a drawing is stamped "Rejected" or "Revise and Resubmit", the Contractor shall correct and resubmit as outlined above. When stamped "Make Corrections Noted", or similar instructions, the Contractor shall correct and resubmit for record only, three (3) prints of each drawing. Also see Technical Specifications, Division I, General Requirements.
11. Samples: Following Contractor's review and approval, Contractor shall submit to the Architect, five (5) minimum samples of all materials in quantities and sizes as specified herein as requested by the Architect. Submittals shall be given to the Architect at a time determined by the Contractor, which allows for any necessary resubmittal and which will not cause any delay in the Work. Samples will be forwarded to the Architect. If a sample is stamped "Rejected" or "Revise and Resubmit", one sample so noted will be returned to the Contractor. The Contractor shall correct and resubmit as outlined above. If a sample is stamped "Make Corrections Noted", one sample so noted will be returned.

1 Corrected samples shall be resubmitted for approval as per the original
2 submittal. Also see Technical Specifications and General
3 Requirements.
4

5 12. Brochures: Following Contractor's review and approval, Contractor
6 shall submit to the Architect, five (5) copies of all manufacturer's
7 catalogs or brochures as required. Brochures will be forwarded to the
8 Architect for review. If a brochure is stamped "No Exception Taken",
9 two (2) copies will be returned to the Contractor. If stamped "Rejected",
10 one marked copy and two (2) unmarked copies will be returned.
11 Corrected copies shall be resubmitted for approval as per the original
12 submittal. Also see General Requirements.
13

14 13. Manufacturer's Instructions: Where any item or work is required by
15 Specifications to be furnished, installed or performed in accordance
16 with a specified product manufacturer's instructions, Contractor shall
17 procure and distribute the necessary copies of such instructions to all
18 concerned parties.
19

20 G. Materials - All materials, unless otherwise specified, shall be new and of good
21 quality, proof of which shall be furnished by the Contractor; in case of doubt as
22 to kind or quality required, samples shall be submitted to the Architect through
23 the Project Manager who will specify the kind and use of the material
24 appropriate to the location and the function of the item in question. Contractor
25 shall furnish such item accordingly. Before final payment, all material rejected
26 by the Architect or Project Manager shall be promptly removed from the
27 premises by the Contractor, whether or not completely installed, and promptly
28 and properly replaced with correct materials, including any other work adjoining
29 if disturbed, in accordance with the contract and without expense to the Owner;
30 the Contractor also shall pay for work of other Contractors as is affected by
31 such removals and replacements.
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33

34 2.06 THE ARCHITECT
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36 A. The Owner may delegate all or a portion of its rights and responsibilities to a
37 licensed Architect as deemed necessary per Work Order.
38

39 B. The Architect advises the Project Manager in all aspects of the construction
40 phase of the Project. The Architect's functions include advice and assistance
41 to the Project Manager in the correct interpretation and application of the
42 Contract Documents. The Architect is not authorized independently to issue
43 Addenda, Clarifications, Field Orders, Work Authorizations, or Supplemental
44 Work Orders, or in any other way to bind the Owner in discussions with the
45 Contractor.
46

47 C. The Contractor shall deliver all correspondence relating to the proper execution
48 of the Work to the Project Manager. The Project Manager reserves the right
49 to consult with the Architect and Owner prior to responding to the Contractor's
50 correspondence.
51

- 1 D. When discussions between the Contractor and the Project Manager occur
2 either on the site or elsewhere, but the Architect is not present, the Project
3 Manager reserves the right to consult with the Architect and Owner prior to
4 issuing his/her final decision or instruction.
5
6 E. The Architect shall review or take other appropriate action upon the
7 Contractor's submittals such as Shop Drawings, Product Data and Samples,
8 but only for conformance with the design concept of the Work and the
9 information given in the Contract Documents. Such action shall generally be
10 taken within ten (10) working days, however under certain circumstances such
11 as very complex submittals or if large number of submittals are submitted at
12 one (1) time it may take longer. In this case the Contractor will be notified and
13 given the opportunity to advise the Architect of priorities. The Architect's
14 review of a specific item shall not indicate review of an assembly of which the
15 item is a component.
16

17
18 2.07 THE PROJECT MANAGER
19

- 20 A. The Project Manager is the authorized representative of the Owner in all
21 aspects of administering the construction contract on behalf of the Owner. All
22 communications from and to the Contractor will be channeled through the
23 Project Manager. However, the Project Manager does not have the authority
24 to bind the Owner in matters affecting adjustments to the time or cost of the
25 project as defined in the Agreement for Construction.
26
27 B. The Project Manager will be the Owner's representative during the construction
28 and warranty periods, and until final payment to all contractors is due. The
29 Project Manager will advise and consult with the Owner. All instructions to the
30 Contractor shall be forwarded through the Project Manager. The Project
31 Manager will have authority to act on behalf of the Owner only to the extent
32 provided in the Contract Documents, unless otherwise modified by written
33 instrument.
34
35 C. The Project Manager will be on site during construction to monitor the progress
36 and quality of the Work and to determine in general if the Work is proceeding
37 in accordance with the Contract Documents. On the basis of on-site
38 observations and communication with the Contractor, the Project Manager will
39 keep the Owner informed of the progress of the Work, and will endeavor to
40 guard the Owner against defects and deficiencies in the Work of the
41 Contractor.
42
43 D. The Project Manager shall at all times have access to the Work wherever it is
44 in preparation and progress. The Contractor shall provide facilities for such
45 access so that the Project Manager may perform its functions under the
46 Contract Documents.
47
48 E. Based on the Project Manager's observations, and an evaluation of the
49 Contractor's Application for Payment, the Project Manager will determine the
50 amount owing to the Contractor and will issue to the Owner Certificates for
51 Payment incorporating such amount.

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- F. The Project Manager will be the initial interpreter of the requirements of the Contract Documents and the initial judge of the performance hereunder by the Contractor. The Owner will have final authority of all such matters.
- G. 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. Either party to the Contract may make written request to the Project Manager for such interpretations.
- H. 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 Owner (or his/her designee).
- I. All interpretations and decisions of the Project Manager will be in writing or in graphic form, and shall be both consistent with the intent of the Contract Documents and reasonably inferable therefrom.
- J. The Project Manager will have the authority to reject, or recommend to the Owner the rejection, of any 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 whether or not such work be then fabricated, installed or completed.
- K. The Project Manager will receive from the Contractor and review all Shop Drawings, Product Data and Samples, and forward same to Architect and Owner for review.
- L. Following consultation with the Owner, the Project Manager will take appropriate action on changes, and will have authority to order minor changes in the Work as provided herein.
- M. The Project Manager will conduct inspections to determine the date of Completion, and will receive and forward to the Owner for the Owner's review written warranties and related documents required by the Contract Documents and assembled by the Contractor. The Project Manager will issue a final Project Certificate for Payment upon compliance with the requirements for completion and final payment. The Project Manager will monitor the warranty for a period of one (1) year from and after the date of acceptance of the Work, unless otherwise specified as a longer term.
- N. The duties, responsibilities and limitations of authority of the Project Manager as the Owner's representatives during construction as set forth in the Contract Documents, will not be modified or extended without written consent of the Owner, the Contractor and the Project Manager, which consent shall not be unreasonably withheld. Failure of the Contractor to respond within ten (10) business days to a written request shall constitute consent by the Contractor.

1 O. In case of the termination of the employment of the Project Manager, the
2 Owner may appoint a successor Project Manager, whose status and duties
3 under the Contract Documents shall be the same as those of the former Project
4 Manager.
5

6
7 2.08 OWNER

8
9 A. Information and Services Required of the Owner

- 10
11 1. Unless otherwise provided in the Contract Documents, the Owner shall
12 secure and pay for necessary approvals, easements, assessments and
13 charges required for the construction, use or occupancy of permanent
14 structures or for permanent changes in existing facilities.
15
16 2. Information or services under the Owner's control shall be furnished by
17 the Owner with reasonable promptness to avoid delay in the orderly
18 progress of the Work.
19
20 3. The Owner shall forward all instructions to the Contractor through the
21 Project Manager.
22

23 B. Owner's Right to Stop the Work

24
25 If the Contractor fails to correct defective work as required by Section 2.42
26 herein or persistently fails to carry out the Work in accordance with the Contract
27 Documents, the Owner, by a written order signed personally or by an agent
28 specifically so empowered by the Owner in writing, may order the Contractor
29 to stop the Work, or any portion thereof, until the cause for such order has been
30 eliminated; however, this right of the Owner to stop the Work shall not give rise
31 to any duty on the part of the Owner to exercise this right for the benefit of any
32 contractor or any other person or entity, except to the extent required by
33 Section 2.12.C.
34

35 C. Owner's Right to Carry Out the Work

36
37 If the Contractor defaults or neglects to carry out the Work in accordance with
38 the Contract Documents, and fails after written notice from the Owner to correct
39 such default or neglect with diligence and promptness, the Owner may, after
40 an additional written notice and without prejudice to any other remedy the
41 Owner may have, make good such deficiencies. In such case an appropriate
42 Supplemental Work Order shall be issued deducting from the payments then
43 or thereafter due the Contractor the cost of correcting such deficiencies,
44 including compensation for the additional services of the Architect or other
45 professionals made necessary by such default, neglect or failure. Such action
46 by the Owner and the amount charged to the Contractor are both subject to
47 the prior approval of the Architect. If the payments then or thereafter due the
48 Contractor are not sufficient to cover such amount, the Contractor shall pay the
49 difference to the Owner, or Owner may require payment by the surety on the
50 performance or warranty bonds as appropriate. Such action shall, in no way,

1 affect the status of either party under contract, nor be held as a basis of any
2 claim by the Contractor for damages or extension of time.

3
4 D. Award of Individual Work Orders

5
6 The Owner may award an individual Work Order to any selected Contractor.
7 Selection of the Contractor and award of the Work Order will be in compliance
8 with established Owner procedures and based on one or more of the following
9 criteria:

- 10
11 1. Rotational selection among all Contractors, unless otherwise
12 determined by the Owner.
13
14 2. Evaluation of past and current performance on Work Orders of a similar
15 nature and type of work, project size, construction management
16 challenges, schedule performance, design management requirements,
17 etc.
18
19 3. Balancing of work load (Work Order dollar volume and construction
20 backlog) among Contractors.
21
22 4. Management of Work Order dollar volume within bonding limitations of
23 the Contractor.
24
25 5. Price, as it relates to the Owner's independent cost estimate.
26
27 6. Contractor's responsiveness to the Owner on Work Orders.
28
29 7. Other appropriate criteria as deemed in the best interest of the Owner.
30

31
32 2.09 CONTRACTOR RESPONSIBILITIES

33
34 A. Procedure for Developing a Work Order

35
36 As the need exists, the Owner will notify the Contractor of a Project, schedule
37 a Joint Scope Meeting and issue a Notice of Joint Scope Meeting. The
38 Contractor shall attend the Joint Scope Meeting and discuss, at a minimum:

- 39
40 1. the general scope of the work;
41
42 2. alternatives for performing the work and value engineering;
43
44 3. access to the site and protocol for admission;
45
46 4. hours of operation;
47
48 5. staging area;
49
50 6. requirements for catalog cuts, technical data, samples and shop
51 drawings;

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7. requirements for professional services, sketches, drawings, and specifications;
8. construction duration;
9. liquidated damages;
10. the presence of hazardous materials;
11. date on which Proposal is due.

Upon completion of the joint scoping process, the Owner will prepare a draft Detailed Scope of Work referencing any sketches, drawings, photographs, and specifications required to document accurately the work to be accomplished. The Contractor shall review the Detailed Scope of Work and request any required changes or modifications. When an acceptable Detailed Scope of Work has been prepared, the Owner will issue a Request for Proposal that will require the Contractor to prepare a Work Order Proposal. The Detailed Scope of Work, unless modified by both the Contractor and the Owner, will be the basis on which the Contractor will develop its Work Order Package and the Owner will evaluate the same. The Contractor does not have the right to refuse to perform any task or any work in connection with a particular Project.

The Owner may, at this option, include quantities in the Detailed Scope of Work if it helps to define the Detailed Scope of Work, if the actual quantities required are not known or cannot be determined at the time the Detailed Scope of Work is prepared, if the Contractor and the Owner cannot agree on the quantities required, or for any other reason as determined by the Owner. In all such cases, the Owner shall issue a Supplemental Job Order adjusting the quantities appearing in the Detailed Scope of Work to the actual quantities.

B. Preparation of the Price Proposal

The Contractor will prepare Price Proposals in accordance with the following:

1. Pre-priced Tasks: A Pre-priced Task is a task described and for which a Unit Price is set forth in the Construction Task Catalog[®]. For Pre-priced Tasks the Contractor shall identify the task and quantities required from the Construction Task Catalog[®].
2. Non Pre-priced Tasks: Units of work not included in the Construction Task Catalog[®], but within the general scope and intent of this Contract, may be negotiated into this Contract as needs arise. Such work requirements shall be incorporated into and made a part of this Contract for the Work Order to which they pertain, and may be incorporated into the Construction Task Catalog[®] if determined appropriate by the County at the negotiated price. Non Pre-Priced Tasks shall be separately identified and submitted in the Proposal.

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- a. The Contractor shall break down any Non Pre-price item if the labor, material or equipment required to accomplish the Non Pre-priced task can be used out of the Construction Task Catalog® at a pre-price rate times the Bidder's appropriate Adjustment Factor. Whether a Work requirement is Pre-priced or Non Pre-priced is a final determination by the County, binding and conclusive on the Contractor.

- b. Information submitted in support of Non Pre-priced work shall include, but not be limited to, the following: Complete specifications and technical data, including work unit content, work unit costs data, schedule requirements; quality control and inspection requirements. Pricing data submitted in support of Non Pre-Priced Tasks shall include a cost or price analysis report, establishing the basis for selecting the approach proposed to accomplish the requirements. Unless otherwise directed by the County, cost data shall be submitted demonstrating that the Contractor solicited and received three bids. The Contractor shall provide an installed unit price (or demolition price if appropriate), which shall include all costs required to accomplish the Non Pre-priced Task.

- c. The final price submitted for Non Pre-priced Tasks shall be according to the following formula:

Contractor Performed Duties

- A = The number of hours for each labor classification and hourly rates
- B = Equipment costs (other than small tools)
- C = Three independent quotes for all materials

Total Cost for self-performed work = (A+B+C) x Normal Hours Adjustment Factor (Only if A & B cannot be priced out of the Construction Task Catalog®)

For Work performed by Subcontractors:

If the Work is to be subcontracted, the Contractor must submit three independent bids from Subcontractors. If three quotes or bids cannot be obtained, the Contractor will provide the reason in writing for the County's approval as to why three quotes cannot be submitted.

D = Subcontractor Costs (supported by three quotes)

Total Costs of Non Pre-Priced Task = D x Normal Hours Adjustment Factor

- d. After a Non Pre-priced Task has been approved by the Owner, the Unit Price for such task will be established, and fixed as a permanent Non Pre-priced Task which will no longer require price justification.

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- e. The Owner's determination as to whether an item is a Pre-priced Task or a Non Pre-priced Task shall be final, binding and conclusive as to the Contractor.

- 3. Whenever, because of trade jurisdiction rules or small quantities, the cost of a minor task in the Price Proposal is less than the cost of the actual labor and material to perform such task, the Owner may permit the Contractor to be paid for such task as a Non Pre-priced Task, or use Pre-priced labor tasks and material component pricing to cover the actual costs incurred. Provided, however, that there is no other work for that trade on the Project or other work for that trade cannot be scheduled at the same time and the final charge does not exceed \$1,000.

- 4. Contractor shall make the necessary arrangements for and obtain all filings and permits required for the Work, including the preparation of all drawings, sketches, calculations and other documents and information that may be required therefor. If the Contractor is required to pay an application fee for filing a project, a fee to obtain a building permit, or any other permit fee to the City, State or some other governmental or regulatory agency, then the amount of such fee paid by the Contractor for which a receipt is obtained shall be treated as a Reimbursable Task to be paid without mark-up. The cost of expediting services or equipment use fees are not reimbursable.

- 5. Design requirements will be determined by the scope of work defined in each Work Order. If the level of Architect/Engineer services for a Work Order requires stamped plans and specifications for the development of the Detailed Scope of Work, the Owner shall be responsible to prepare them. As needed, the contractor may assist with the development of the scope through one or more joint scope meetings and subsequent review of the prepared documents. All shop drawings, submittals and similar documents required in connection with a particular Work Order are considered to be incidental to the Contract and included in the Contractor's Adjustment Factors.

- 6. The Contractor's Price Proposal shall include, at a minimum:
 - a. Price Proposal;
 - b. Back Up for Non Pre-priced Tasks;
 - c. Any other documentation requested by the Owner.

- 7. The Contractor's Price Proposal shall be submitted by the date indicated on the Request for Proposal. All incomplete Price Proposals shall be rejected. The time allowed for preparation of the Contractor's Price Proposal will depend on the complexity and urgency of the Work Order but should average between seven (7) and fourteen (14) days. On complex Work Orders, such as Work Orders requiring incidental engineering/architectural drawings and approvals and permits,

1 allowance will be made to provide adequate time for preparation and
2 submittal of the necessary documents.
3

4 8. By submitting a Price Proposal to the Owner, the Contractor agrees to
5 accomplish the Detailed Scope of Work in accordance with the Request
6 for Proposal at the price submitted. It is the Contractor's responsibility
7 to include the necessary tasks and quantities in the Price Proposal and
8 apply the appropriate Adjustment Factor(s) prior to delivering it to the
9 Owner.

10
11 9. If the Contractor requires clarifications or additional information
12 regarding the scope of work in order to prepare the Price Proposal, the
13 request must be submitted so that the submittal of the Price Proposal
14 is not delayed.
15

16 C. Review of the Price Proposal

17
18 1. If the Owner finds the Contractor's Price Proposal unacceptable, the
19 Owner may request the Contractor to re-submit its Price Proposal or
20 cancel the Work Order. After the Owner has reviewed the Price
21 Proposal and an agreement has been reached between the Owner and
22 the Contractor as to the nature of the revisions, if any, the Contractor is
23 not allowed to make any changes to the revised Price Proposal other
24 than the agreed upon changes. Unless otherwise specified by the
25 Owner, if the Contractor is required to resubmit the Price Proposal, the
26 revised Price Proposal is due no later than 48 hours after the changes
27 have been agreed upon.
28

29 2. The Contractor may choose the means and methods of construction;
30 subject however, to the Owner's right to reject any means and methods
31 proposed by the Contractor that:
32

33 a) Will constitute or create a hazard to the work, or to persons or
34 property; or

35
36 b) Will not produce finished Work in accordance with the terms of
37 the Contract; or

38
39 c) Unnecessarily increases the price of the Work Order when
40 alternative means and methods are available; or

41
42 d) Deviates from the Detailed Scope of Work.
43

44 3. Once the Price Proposal is accepted by the Owner (by issuance of a
45 Notice to Proceed through the Gordian System), the Work Order
46 becomes a firm fixed, lump sum contract. Unless specifically stated in
47 the Detailed Scope of Work, no adjustment in the proposed Pre-priced
48 Tasks and Non Pre-priced Tasks or quantities is allowed. Inspection of
49 the Contractor's Work shall be against the Detailed Scope of Work
50 including any Technical Specifications and Drawings, not against the
51 Price Proposal.

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D. Preparation of the Proposal Package:

1. Time for Submittal: Upon acceptance of the Contractor's Price Proposal, the Contractor will be required to submit the Proposal Package within five (5) working days of said acceptance, unless otherwise specified by the Owner. If the Contractor fails to meet the deadline for submittal of the Proposal Package, the Owner may declare the Contractor in default and initiate termination of the Work Order.
2. The Proposal Package shall include:
 - a. Price Proposal as agreed to
 - b. Final back-up for any Non Pre-priced Tasks (if applicable)
 - c. Subcontractor List, including:
 - i. The name, license number and the location of the place of business of each subcontractor who will perform work or labor or render service to the general contractor in or about the construction of the work or improvement in an amount in excess of one-half (1/2) of one percent (1%) of the general contractor's total proposal amount, and
 - ii. The portion of the work which will be done by each subcontractor.
 - iii. The attention of bidders is directed to the provisions of Public Contract Code Section 4100 et seq which set forth the consequences and possible penalties which may result from a failure to comply strictly with the foregoing requirements for listing of subcontractors.
 - d. Final drawings, calculations, specifications (if applicable)
 - e. Final catalog cuts, (if applicable)
 - f. Special insurance, (if applicable)
 - g. For Special equipment and installations, a copy of the warranty document (if applicable)
 - h. Any other documentation required for the Work Order as indicated on the RFP (if applicable)
3. By submitting a Proposal Package to the Owner, the Contractor is agreeing to accomplish the Work outlined in the Request For Proposal and the Detailed Scope of Work for that particular Work Order.

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E. Review of the Proposal Package and Issuance of the Work Order:

1. The Owner will evaluate the entire Proposal Package.
2. The Owner reserves the right to reject a Contractor's Proposal Package based on inadequate documentation, unacceptable subcontractors, or other inconsistencies on the Contractor's part.
3. The Owner reserves the right to reject a Price Proposal or cancel a Project for any reason. The Owner also reserves the right not to issue a Work Order if it is determined to be in the best interests of the Owner. The Owner may perform such work by other means. The Contractor shall not recover any costs arising out of or related to the development of the Work Order including but not limited to the costs to attend the Joint Scope Meeting, review the Detailed Scope of Work, prepare a Proposal (including incidental architectural and engineering services), subcontractor costs, and the costs to review the Work Order Proposal with the Owner.
4. Each Work Order provided to the Contractor shall reference the Detailed Scope of Work and set forth the Work Order Price and the Work Order Completion Time. All clauses of this Contract shall be applicable to each Work Order. The Work Order, signed by the Owner and delivered to the Contractor constitutes the Owner's acceptance of the Contractor's Proposal Package. A signed copy of the Work Order will be provided to the Contractor.
5. In the event that immediate emergency response is necessary, the Contractor shall be required to follow alternative procedures as established by the Owner. The Contractor shall begin work as directed notwithstanding the absence of a fully developed Request for Proposal, Detailed Scope of Work, or Work Order. The Contractor shall be compensated in accordance with the Construction Task Catalog® and Non Pre-priced Tasks as if the work had been ordered under the standard procedures.

F. Review of Contract Documents and Field Conditions

1. The Contractor shall carefully study and compare the Contract Documents and shall at once report to the Project Manager any discrepancy or inconsistency that may be discovered. The Contractor shall not be liable to the Owner or the Project Manager for any damage resulting from any such inconsistencies or discrepancies in the Contract Documents unless the Contractor recognized such inconsistencies or discrepancies and knowingly failed to report it to the Project Manager, or the Contractor was responsible for the preparation of the Contract Documents. 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.

1 facilities; particularly interruptions to air conditioning, electrical services,
2 alarm systems, communications and computer systems. The
3 Contractor shall be responsible for all costs incurred by the Owner on
4 a system as a result of work by the Contractor or damage caused by
5 the Contractor's operations, including costs associated with false fire
6 alarms caused by Contractor's operations.
7

- 8 4. Laws of County and State - The Contractor must comply with all laws,
9 rules, regulations, provisions and ordinances of the County in which the
10 Work is being done, and all State laws pertaining to the Work.
11
12 5. Safeguards - The Contractor shall provide, in conformity with all local
13 codes and ordinances and as may be required, such temporary walls,
14 fences, guard-rails, barricades, lights, danger signs, enclosures, etc.,
15 and shall maintain such safeguards until all work is completed.
16
17 6. Housekeeping - Contractor shall keep the premises free of excess
18 accumulated debris. Clean up as required and as directed by the
19 Project Manager. At completion of work all debris shall be removed
20 from the site. Refer to General Requirements for additional
21 requirements.
22
23 7. Labor and Materials - Unless otherwise provided in the Contract
24 Documents, the Contractor shall provide and pay for all labor,
25 materials, equipment, tools, construction equipment and machinery,
26 water, heat, utilities, transportation, and other facilities and services
27 necessary for the proper execution and completion of the Work,
28 whether temporary or permanent and whether or not incorporated or to
29 be incorporated in the Work.
30
31 8. The Contractor shall deliver to the Project Manager, prior to final
32 acceptance of the Work as a whole, signed certificates from suppliers
33 of materials and manufactured items stating that such items conform to
34 the Contract Documents.
35
36 9. The Contractor, immediately upon Notice to Proceed of each individual
37 Work Order (or where shop drawings, samples, etc., are required,
38 immediately upon receipt of review thereof) shall place orders for all
39 materials, work fabrication, and/or equipment to be employed by
40 him/her in that portion of the Work contracted for. The Contractor shall
41 keep all materials, work fabrications and/or equipment specified and
42 shall advise the Project Manager promptly, in writing, of all orders
43 placed and of such materials, work fabrications and/or equipment which
44 may not be available in a timely manner for the purposes of the
45 Contract.
46
47 10. Any worker whose work is unsatisfactory to the Owner or the Architect
48 or Engineer, or are considered by the Owner or Architect or Engineer
49 to be careless, incompetent, unskilled or otherwise unfit shall be
50 dismissed from work under the Contract upon written request to the
51 Contractor from the Owner or the Architect or Engineer.

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- 11. Temporary Facilities – Contractor may connect to existing water and electricity available on the site provided it is suitable to the Contractor's requirements. Water and electricity used will be paid by the Owner. Contractor shall bear all expenses for carrying the water or electricity to the appropriate locations and to connect or tap into existing lines. Toilet facilities may be available on a site to the workmen engaged in the performance of this contract. It shall be the responsibility of the Contractor to confirm with the Owner the availability of toilet facilities on the site. The use of such facilities may be revoked in the event of excess janitorial requirements.

- 12. Contractor shall not perform any fire hazardous operation adjacent to combustible materials. Any fire hazardous operation shall have proper fire extinguisher close by and the adjacent area shall be policed before stopping work for the day. Contractor shall provide not less than one OSHA/NFPA Class 6-ABC fire extinguisher for each 9,000 square feet of project area or fraction thereof.

- 13. Contractor shall erect temporary dust separation partitions and floor mats as necessary to confine dust and debris within area of work. Contractor shall post signs, erect and maintain barriers and warning devices for the protection of the general public and Owner personnel. The Contractor shall provide adequate protection for all parts of the present building and its contents and occupants wherever work under this contract is to be performed. The Contractor shall observe that the health and welfare of occupants of the existing building may be affected by noises and fumes produced by the construction. Insofar as is possible, loud and unnecessary noise is to be avoided and noise producing work should be performed as far away from occupied areas as is consistent with the efficient conduct of the work.

- 14. Trenching and Excavation - In accordance with Section 7104 of the California Public Contract Code, the following provisions shall apply to any contract involving digging of trenches or other excavations that extend deeper than four feet below the surface:
 - a. The contractor shall promptly, and before the following conditions are disturbed, notify the Owner, in writing, of any:
 - i. Material that the contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.
 - ii. Subsurface or latent physical conditions at the site differing from those indicated.
 - iii. Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily

encountered and generally recognized as inherent in work of the character provided for in the contract.

b. The Owner shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the contractor's cost of, or the time required for, performance of any part of the work, shall issue a Supplemental Work Order in accordance with the provisions of Section 2.09 of the General Conditions.

c. In the event that a dispute arises between the Owner and the contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the contractor's cost of, or time required for, performance of any part of the work, the contractor shall not be excused from any scheduled completion date provided for by the contract, but shall proceed with all work to be performed under the contract. The contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the contracting parties.

2.10 SUBCONTRACTORS

A. Agreements - Agreements between the Contractor, Subcontractors, and Subcontractors of lower tier shall be subject to the approval of the Owner, but in no case does such approval relieve the Contractor of any conditions imposed by the Contract Documents. The Contractor shall only use subcontractors included in his/her Work Order Proposal unless first approved by the Owner pursuant to statute. 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. Notwithstanding any other provision of the Contract Documents, subcontractors may be added, deleted or substituted only in accordance with the provisions of Public Contract Code Section 4100 et seq.

B. Relation with Subcontractor – By an appropriate agreement, written where legally required for enforceability, the Contractor shall bind every Subcontractor and require therein that every Subcontractor agrees to be bound by the terms of the Contract Documents to carry out their provisions insofar as applicable to their work; and the Contractor further agrees to pay to each Subcontractor promptly upon issuance of Certificate of Payment, his/her or their due portion. Said agreement shall preserve and protect the rights of the Owner and the Architect 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, and shall allow to the Subcontractor, unless specifically provided otherwise in the Contractor-Subcontractor Agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, under the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into

1 similar agreements with their Sub-subcontractors. The Contractor shall make
2 available to each proposed Subcontractor, prior to the execution of the
3 Subcontract, copies of the Contract Documents to which the Subcontractor will
4 be bound by this Paragraph and identify to the Subcontractor any terms and
5 conditions of the proposed Subcontract which may be at variance with the
6 Contract Documents. Each Subcontractor shall similarly make copies of
7 Contract Documents available to their Sub-subcontractors. Nothing contained
8 herein shall be deemed to create an agency relationship between the Owner
9 and any Subcontractor or material supplier.

- 10
11 C. Owner's Relation - Neither the acceptance of the name of Subcontractor nor
12 the suggestion of such name nor any other act of the Owner or Architect nor
13 anything contained in any Contract Document is to be construed as creating
14 any contractual relation between the Owner (or Owner's authorized
15 representatives) and any Subcontractor of any tier nor as creating any
16 contractual relation between the Architect and any Subcontractor of any tier.
17
18 D. All Subcontractors employed by the Contractor shall be appropriately licensed
19 in conformity with the laws of the State of California.
20
21 E. Jurisdictional disputes between Subcontractors or between Contractor and
22 Subcontractor shall not be mediated or decided by the Owner or the Architect.
23 The Contractor shall be responsible for the resolution of all such disputes
24 based upon his/her contractual relationship with his/her Subcontractors.
25
26

27 2.11 OWNER'S RIGHT TO PERFORM WORK AND TO AWARD SEPARATE
28 CONTRACTS
29

- 30 A. The Owner reserves the right to perform work related to the Project with the
31 Owner's own forces, and to award separate contracts in connection with other
32 portions of the Project or other work on the site under these or similar
33 Conditions of the Contract. If the Contractor claims that the Owner's action
34 results in delay, damage or additional cost attributable thereto, the Contractor
35 shall make such claim as provided elsewhere in the Contract Documents.
36
37 B. When separate contracts are awarded for different portions of the Project or
38 other work on the site, the term Contractor in the Contract Documents in each
39 case shall mean the Contractor who executes each separate Owner-
40 Contractor Agreement.
41
42 C. The Owner shall provide for coordination of the activities of the Owner's own
43 forces and of each separate contractor with the Work of the Contractor, who
44 shall cooperate with them. The Contractor shall participate with other separate
45 contractors and the Owner in reviewing their construction schedules when
46 directed to do so. The Contractor shall make any revisions to the construction
47 schedule deemed necessary after a joint review and mutual agreement. The
48 construction schedules shall then constitute the schedules to be used by the
49 Contractor, separate contractors and the Owner until subsequently revised.
50

1 D. Unless otherwise provided in the Contract Documents, when the Owner
2 performs construction or operations related to the Project with the Owner's own
3 forces, the Owner shall be deemed to be subject to the same obligations and
4 to have the same rights which apply to the Contractor under the Conditions of
5 the Contract.
6

7
8 2.12 MUTUAL RESPONSIBILITY
9

10 A. The Contractor shall afford the Owner and separate contractors reasonable
11 opportunity for introduction and storage of their materials and equipment and
12 performance of their activities and shall connect and coordinate the
13 Contractor's construction and operations with theirs as required by the Contract
14 Documents.
15

16 B. When any part of the Contractor's Work depends upon proper execution or
17 results of the work of the Owner or any separate contractor, the Contractor
18 shall, prior to proceeding with the Work, promptly report to the Project Manager
19 any apparent discrepancies or defects in such other work that render it
20 unsuitable for such proper execution and results. Failure of the Contractor so
21 to report shall constitute an acceptance of the Owner's or separate contractor's
22 work as fit and proper to receive the Work, except as to defects which may
23 subsequently become apparent in such work by others.
24

25 C. If, following the reporting of any discrepancy or defect as required herein
26 above, the Contractor suffers damage due to disruption or delay caused by the
27 separate contractor, without fault by the Owner, the Contractor's remedy shall
28 be limited to seeking recovery from the separate contractor.
29

30 D. Any costs caused by defective or ill-timed work shall be borne by the Contractor
31 responsible therefor.
32

33 E. Should the Contractor cause damage to the work or property of the Owner, or
34 to other work or property on the site, the Contractor shall promptly remedy such
35 damage as provided herein.
36

37 F. Should the Contractor wrongfully delay or cause damage to the work or
38 property of any separate contractor, the Contractor shall, upon due notice,
39 promptly attempt to settle with such other contractor by agreement, or
40 otherwise to resolve the dispute. If such separate contractor sues the Owner
41 on account of any delay or damage alleged to have been caused by the
42 Contractor, the Owner shall notify the Contractor who shall defend such
43 proceedings, and if any judgment or award against the Owner (or Owner's
44 authorized representatives) arises therefrom, the Contractor shall pay or
45 satisfy such judgment or award in full and shall reimburse the Owner for all
46 costs which the Owner has incurred in connection with such matter.
47

48
49 2.13 OWNER'S RIGHT TO CLEAN UP
50

1 If a dispute arises between the Contractor and separate contractors as to their
2 responsibility for cleaning up as required in the Contract Documents, the Owner may
3 clean up and the contractor responsible shall pay Owner such portions of the cost as
4 the Project Manager shall determine to be just.
5
6

7 2.14 GOVERNING LAW
8

9 The Contract shall be governed by the law of the State of California.
10

11
12 2.15 INSPECTION
13

14 A. All material and workmanship (if not otherwise designated by the Contract
15 Documents) shall be subject to inspection, examination, and test by the Owner
16 and Project Manager at any and all times during manufacture and/or
17 construction and at any and all places where such manufacture and/or
18 construction are carried on. The Owner and Project Manager shall have the
19 right to reject defective material and workmanship or require its correction.
20

21 B. The Contractor shall furnish promptly without additional charge, all reasonable
22 facilities, labor, and materials necessary for the safe and convenient inspection
23 and tests that may be required by the Owner and Project Manager.
24

25 C. Where the Contract Documents, instructions by the Owner, laws, ordinances,
26 or any public authority having jurisdiction requires work to be inspected, tested
27 or approved before work proceeds, such work shall not proceed, nor shall it be
28 concealed prior to inspection.
29

30 D. The Contractor shall give the Project Manager at least two (2) business days
31 advance notice of the readiness for any Contract compliance inspection by the
32 Inspector. The Contractor shall give notice as required by all other inspecting
33 and testing agencies of jurisdiction for Code and regular compliance
34 inspection. In all cases, the Contractor shall schedule inspections so as not to
35 delay the Work.
36

37 E. If the Project Manager determines that any work requires additional special
38 inspection beyond that identified in the specifications, the Project Manager will,
39 upon written authorization from the Owner, instruct the Contractor to order
40 such special inspection, testing or approval, and the Contractor shall give
41 notice as provided above. If such special inspection or testing reveals a failure
42 of the Work to comply with the requirements of the Contract Documents, the
43 Contractor shall bear all costs thereof, including compensation for the Project
44 Manager's additional services, testing or inspections made necessary by such
45 failure; otherwise the Owner shall bear such costs, and an appropriate
46 Supplemental Work Order shall be issued.
47

48 F. Should it be considered necessary or advisable by the Project Manager at any
49 time either before acceptance of the entire Work or after acceptance and within
50 the guaranty period to make an examination of work already completed, by
51 removing or tearing out same, the Contractor shall on request promptly furnish

1 the Project Manager in writing, and any necessary changes shall be
2 accomplished by appropriate Modification.

3
4 F. If the Contractor performs any work knowing it to be contrary to any laws,
5 ordinances, rules and regulations, without notice to the Project Manager, the
6 Contractor shall assume full responsibility therefore and shall bear all costs
7 attributable thereto.

8
9 G. Any reference in the Contract Documents to codes, standard specifications or
10 manufacturer's instructions shall mean the latest printed edition of each in
11 effect at the Contract date.

12
13
14 2.17 CONTRACTOR'S CONSTRUCTION SCHEDULE

15
16 A. Within seven (7) calendar days after receipt of Notice to Proceed for each
17 individual Work Order, the Contractor shall submit a Construction Schedule in
18 CPM (Critical Path Method) form to the Project Manager for approval. The
19 Construction Schedule shall be sufficiently detailed to accurately depict all the
20 work required by the Contract. CPM Construction Schedule shall reflect shop
21 drawings; submittals due and return dates, fabrication and delivery times, cost
22 loading, crew mix, and equipment loading data. The Contractor shall thereafter
23 adhere to the Construction Schedule, as updated monthly, or as necessary in
24 accordance with the Contract Documents including any scope changes, or
25 changes in the work approved by the Owner during the course of construction.
26 "Slack" or "float" time on the CPM Construction Schedule is neither for the sole
27 benefit of the Owner or Contractor.

28
29
30 B. Within fourteen (14) calendar days after the pre-construction conference, the
31 Contractor shall provide a Submittal and Procurement Schedule indicating time
32 periods for review of Shop Drawings, Data, Samples, and procurement of
33 material and equipment required for the Work. Contractor shall allow time for
34 submittal review in accordance with the General Requirements Section –
35 Construction Progress Documentation. All items that require review by the
36 Project Manager and/or are not readily available from stock and requiring more
37 than thirty-five (35) days lead-time shall be included in the Submittal and
38 Procurement Schedule. Items listed in the Submittal and Procurement
39 Schedule shall also be identified as activities on the CPM Construction
40 Schedule. Contractor shall identify items requiring coordination with work of
41 separate contractors. The working day to calendar date correlation shall be
42 based upon the Contractor's proposed work week with adequate allowance for
43 legal holidays, days lost due to abnormal weather, and any special
44 requirements of the Project.

45
46 C. The Construction Schedule shall be prepared and maintained by the
47 Contractor.

48
49 D. The Owner, Project Manager, Contractor and other Contractor(s) shall jointly
50 review the progress of the work weekly. Should this review, in the opinion of
51 the Project Manager, indicate that the work is behind the schedule established

1 by currently reviewed Construction Schedule, the Contractor shall either (1)
2 provide a plan to the Project Manager indicating the steps the Contractor
3 intends to take in order to recover the time behind schedule and conform to the
4 reviewed Construction Schedule; or (2) submit a revised Construction
5 Schedule for completion of the work, remaining within the Work Order
6 Completion Time, to the Project Manager for review by the next weekly
7 meeting. If the Contractor's recovery or revised schedule requires work to
8 occur during Other Than Normal Working Hours, the Contractor will be
9 responsible for any resulting costs incurred by the Owner, including but not
10 limited to, the costs for construction management, contract administration,
11 inspection, testing and staffing.
12

- 13 E. The Contractor shall deliver copies of his/her daily job logs to the Project
14 Manager and Owner on a weekly basis or as otherwise agreed to by Owner.
15 At a minimum, the Contractor's daily job log should include the sub-contractors
16 working onsite, number of workers and their trade classification, description of
17 work, visitors, temperature and weather conditions, accidents, delays, and any
18 other important information pertaining to the project that day. The Contractor
19 will schedule and coordinate the Work of all sub-contractors on the Project.
20 The Contractor will keep the Sub-contractors informed of the Construction
21 Schedule to enable the Contractor to plan and perform the Work properly.
22

23
24 2.18 RECORDS, DOCUMENTS AND SAMPLES AT THE SITE

- 25
26 A. The Contractor shall maintain all records of required Review Agencies, County
27 or State inspections and shall promptly notify the Project Manager of the results
28 of any inspection. Copies of all such records shall be provided to the Owner.
29
30 B. The Contractor shall secure and maintain required certificates of inspection,
31 testing or approval and shall promptly deliver them to the Project Manager.
32
33 C. The Contractor shall maintain at the Project site, on a daily basis, one (1)
34 record copy of all Drawings, Specifications, Addenda, Work Orders and other
35 Modifications, in good order and marked currently to record all changes made
36 during construction, and reviewed Shop Drawings, Product Data and Samples.
37 These shall be available to the Project Manager and the Owner and reviewed
38 weekly, and shall be delivered to the Project Manager for forwarding to the
39 Owner upon completion of the Project. The Contractor shall advise the Project
40 Manager on a current basis of all changes in the Work made during
41 construction. Payment may be withheld from Contractor for failure to maintain
42 current Record Documents.
43

44
45 2.19 USE OF SITE

- 46
47 A. The Contractor shall confine operations at the site to areas permitted by law,
48 ordinances, permits and the Contract Documents, and shall not unreasonably
49 encumber the site with any materials or equipment.
50

- 1 B. The Contractor shall coordinate all of the Contractor's operations with, and
2 secure approval from, the Project Manager before using any portion of the site.
3 Also see Technical Specifications, Division I, General Requirements.
4

5
6 2.20 CUTTING AND PATCHING OF WORK
7

- 8 A. The Contractor shall be responsible for all cutting, fitting or patching that may
9 be required to complete the Work or to make its several parts fit together
10 properly.
11
12 B. The Contractor shall not damage or endanger any portion of the Work or the
13 work of the Owner or any separate contractors by cutting, patching or otherwise
14 altering any work, or by excavation. The Contractor shall not cut or otherwise
15 alter the work of the Owner or any separate contractor except with the written
16 consent of the Owner and of such separate contractor. The Contractor shall
17 not unreasonably withhold from the Owner or any separate contractor consent
18 to cutting or otherwise altering the Work.
19
20 C. The Contractor in all cases shall exercise extreme care in any cutting
21 operations, and perform such operations under adequate supervision by
22 competent mechanics skilled in the applicable trade. Openings shall be neatly
23 cut and shall be kept as small as possible to avoid unnecessary damage.
24 Careless and/or avoidable cutting damage, etc., will not be tolerated, and the
25 Contractor will be held responsible for such avoidable or willful damage.
26
27 D. All replacing, patching and repairing of all materials and surfaces cut or
28 damaged in the execution of the Work shall be performed by experienced
29 mechanics of the several trades involved. All work of such nature shall be done
30 with the applicable materials, in such a manner that all surfaces so replaced,
31 repaired, or patched, will, upon completion of the Work, match the surrounding
32 similar surfaces.
33

34
35 2.21 CLEANING UP
36

- 37 A. The Contractor shall at all times keep the premises free from accumulation of
38 waste materials or rubbish caused by the Contractor's operations. At the
39 completion of the Work, the Contractor shall remove all the Contractor's waste
40 materials and rubbish from and about the Project as well as all the Contractor's
41 tools, construction equipment, machinery and surplus materials.
42
43 B. If the Contractor fails to clean up at the completion of the Work, the Owner may
44 do so and the cost thereof shall be paid by the Contractor.
45

46
47 2.22 INDEMNIFICATION
48

- 49 A. To the fullest extent permitted by law, Contractor agrees to and shall indemnify,
50 save, hold harmless and at Owner's request, defend Owner and its officers,
51 agents and employees, and the Architect and Consultants and their respective

1 officers, agents and employees, from any and all costs and expenses, attorney
2 fees and court costs, damages, liabilities, claims and losses occurring or
3 resulting to Owner, the Architect or Consultants in connection with the
4 performance, or failure to perform, by Contractor, its officers, agents or
5 employees under this Agreement, and from any and all costs and expenses,
6 attorney fees and court costs, damages, liabilities, claims and losses occurring
7 or resulting to any person, firm or corporation who may be injured or damaged
8 by the performance, or failure to perform, of Contractor, its officers, agents or
9 employees under this Agreement. In addition, Contractor agrees to indemnify
10 Owner for Federal, State of California and/or local audit exceptions resulting
11 from non-compliance herein on the part of Contractor.
12

13 B. In any and all claims against the Owner, the Architect or Consultants, or any of
14 their respective officers, agents or employees, initiated by any employee of the
15 Contractor, any Subcontractor, anyone directly or indirectly employed by any
16 of them or anyone for whose acts any of them may be liable, the
17 indemnification obligation set forth in the immediately preceding paragraph
18 shall not be limited in any way by any limitation on the amount or type of
19 damages, compensation or benefits payable by or for the Contractor or any
20 Subcontractor under workmen's compensation acts, disability benefit acts or
21 other employee benefit acts.
22

23 1. Independent Contractor: In performance of the work, duties and
24 obligations assumed by Contractor under this Agreement, it is mutually
25 understood and agreed that Contractor, including any and all of the
26 Contractor's officers, agents, and employees will at all times be acting
27 and performing as an independent contractor, and shall act in an
28 independent capacity and not as an officer, agent, servant, employee,
29 joint venturer, partner, or associate of the Owner. Furthermore, Owner
30 shall have no right to control or supervise or direct the manner or
31 method by which Contractor shall perform its work and function.
32 However, Owner shall retain the right to administer this Agreement so
33 as to verify that Contractor is performing its obligations in accordance
34 with the terms and conditions thereof.
35

36 Contractor and Owner shall comply with all applicable provisions of
37 law and the rules and regulations, if any, of governmental authorities
38 having jurisdiction over matters the subject thereof.
39

40 Because of its status as an independent contractor, Contractor shall
41 have absolutely no right to employment rights and benefits available
42 to Owner employees. Contractor shall be solely liable and responsible
43 for providing to, or on behalf of, its employees all legally-required
44 employee benefits. In addition, Contractor shall be solely responsible
45 and save Owner harmless from all matters relating to payment of
46 Contractor's employees, including compliance with Social Security
47 withholding and all other regulations governing such matters. It is
48 acknowledged that during the term of this Agreement, Contractor may
49 be providing services to others unrelated to the Owner or to this
50 Agreement
51

1 2.23 FAIR EMPLOYMENT PRACTICES CLAUSE

2
3 Nondiscrimination: In connection with the performance of Work under the contract,
4 the Contractor agrees (as prescribed in Chapter 6 of Division 3 of Title II of the
5 Government Code of the State of California, commencing at Section 12900 and by
6 Labor Code Section 1735) not to discriminate against any employee or applicant for
7 employment because of race, religious creed, color, national origin, ancestry,
8 physical disability, mental disability, medical condition, marital status or sex. The
9 aforesaid provisions shall include, but not be limited to, the following: employment,
10 upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or
11 termination, rates of pay or other forms of compensation, and selection for training,
12 including apprenticeship. The Contractor agrees to post hereafter in conspicuous
13 places, available for employees and applicants for employment, Notices to be
14 provided by the County, setting forth the provisions of this discrimination clause. The
15 Contractor further agrees to insert the foregoing provisions in all subcontracts
16 hereunder, except subcontracts for standard commercial supplies of raw materials.
17

18
19 2.24 PAYMENT

20
21 A. The Owner shall make one payment for all Work Orders that have a Work
22 Order Completion Time of 45 days or less, or a Work Order Price of \$25,000
23 or less. For all other Work Orders, the Owner may make partial, monthly
24 payments based on a percentage of the work completed.
25

26 B. SCHEDULE OF VALUES

27
28 Before the first Application for Payment, the Contractor shall submit to the
29 Project Manager a Schedule of Values allocated to the various portions of the
30 Work, prepared in such form and supported by such data to substantiate its
31 accuracy as the Project Manager may require. This schedule, unless objected
32 to by the Project Manager, shall be used only as a basis for the Contractor's
33 Applications for Payment.
34

35 C. APPLICATIONS FOR PAYMENT

36
37 The Owner will make progress payments to the Contractor upon completion of
38 portions of the Work, as covered by the Contract Documents, in accordance
39 with established Owner procedures. Before submitting an Application for
40 Payment (Final or Partial) the Contractor shall reach an agreement with the
41 Project Manager (in consultation with the Architect) concerning the percentage
42 complete of the Detailed Scope of Work and the dollar value for which the
43 Application for Payment may be submitted.
44

45 1. On or about the twentieth (20th) of the month in which the work was
46 performed, the Contractor shall submit to the Project Manager an
47 itemized Application for Payment, notarized if required, supported by
48 such data substantiating the Contractor's right to payment as the Owner
49 or the Project Manager may require, including appropriate updates to
50 the Construction Schedule, and reflecting retainage, if any, as provided
51 elsewhere in the Contract Documents. Payment is expressly

1 conditioned upon submission by the Contractor of conditional and
2 unconditional waivers and release of lien rights upon progress payment
3 as the Owner or the Architect may require. Waiver and Release forms
4 must be submitted on forms approved by the Owner. Copies of said
5 forms shall comply with Civil Code Section 8132 through 8138,
6 inclusive.

7
8 2. Unless otherwise provided in the Contract Documents, payments may
9 be made on account of materials or equipment not incorporated in the
10 Work but delivered and suitably stored at the site and, if approved in
11 advance by the Owner, payments may similarly be made for materials
12 or equipment suitably stored at some other location agreed upon in
13 writing. Payments for materials or equipment stored on or off the site
14 shall be conditioned upon submission by the Contractor of bills of sale
15 or such other procedures satisfactory to the Owner to establish the
16 Owner's title to such materials or equipment or otherwise protect the
17 Owner's interest, including applicable insurance and transportation to
18 the site for those materials and equipment stored off the site.

19
20 3. The Contractor warrants that title to all work, materials and equipment
21 covered by an Application for Payment will pass to the Owner either by
22 incorporation in the construction or upon receipt of payment by the
23 Contractor, whichever occurs first, free and clear of all liens, stop
24 notices, claims, security interest or encumbrances, hereinafter referred
25 to as "liens"; and that no work, materials or equipment covered by an
26 Application for Payment will have been acquired by the Contractor, or
27 by any other person performing work at the site or furnishing materials
28 and equipment for the Project, subject to an agreement under which an
29 interest therein or an encumbrance thereon is retained by the seller or
30 otherwise imposed by the Contractor or such other person.

31
32 4. On or about the twentieth (20th) day of the month following the month
33 in which the work was performed, the Owner shall pay to the Contractor
34 ninety-five percent (95%) of the value of said work in place, as checked
35 and approved by the Project Manager. The balance of five percent
36 (5%) of the estimate shall be retained by the Owner until the time of
37 final acceptance of said work. In lieu of the five percent (5%) retainage,
38 the Contractor may substitute securities as provided herein below.

39
40 a. If the Owner does not pay the Contractor within thirty (30) days
41 after receipt of an undisputed and properly submitted payment
42 request for a progress payment, excluding that portion of the
43 final payment designated by the contract as retention earnings,
44 then the Owner shall pay interest to the Contractor as provided
45 by Public Contract Code Section 20104.50. Said interest
46 penalty is the sole recourse of Contractor and Contractor shall
47 have no right to stop the Work until payment of the amount
48 owing has been received, nor shall the Work Order Completion
49 Time be extended, nor shall the Work Order Price be increased
50 in any way, including by reason of any costs incurred by
51 Contractor, except to the extent of said interest payment.

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b. Pursuant to Public Contract Code Section 7107, in the event of a dispute between the Owner and Contractor, the Owner may withhold from the final payment an amount not to exceed one hundred and fifty percent (150%) of the disputed amount. Except as so provided, the Owner shall release the retention withheld within sixty (60) days after the date of Work Order completion of the work of improvement, as "completion" is defined in Public Contract Code Section 7107. In the event that retention payments are not made within the time periods required by Public Contract Code Section 7107, the Owner may be subject to the interest provisions of Public Contract Code Section 7107.

5. Security Substitutions and Escrow for Moneys Withheld to Insure 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 performance and have said moneys paid directly to Contractor, or, in the alternative, have the Owner deposit such moneys directly into an escrow. Upon the closing of any such escrow, Contractor shall pay to each Subcontractor, not later than twenty (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:

(Begin Escrow Agreement)

ESCROW AGREEMENT FOR SECURITY DEPOSITS IN LIEU OF RETENTION

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

For the consideration hereinafter set forth, the Owner, 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 Owner pursuant to the Construction Contract entered into between the Owner and Contractor for _____ in the amount of \$ _____, and dated _____ (hereinafter referred to as the "Contract"). Alternatively, on written request of the contractor, the owner 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 Owner within ten (10) days of the deposit. The market value of the securities at the time of the substitution, as valued by the Owner, 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 Owner and Contractor. If the Owner 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 Owner. Securities shall be held in the name of the Owner and shall designate the Contractor as the beneficial owner.
2. Securities eligible for investment under subdivision (c) of the above-referenced Section 22300 shall include those listed in Section 16430 of the Government Code, and shall also include bank or savings and loan certificates of deposit, interest-bearing demand deposit accounts, and standby letters of credit. Deposit of any other type of security may be permitted only by mutual agreement of the Contractor and the Owner, evidenced by an amendment to this agreement executed by all of the parties hereto.
3. Upon the deposit of adequate securities, Owner shall make progress payments to the Contractor for such funds which otherwise would be withheld from progress payments pursuant to the Contract provisions.
4. When the Owner, 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 Owner pays the Escrow Agent directly.

- 1 5. Contractor shall be responsible for paying all fees for the expenses incurred by Escrow
2 Agent in administering the Escrow Account and all expenses of the Owner. The
3 Owner, Contractor and Escrow Agent shall determine these expenses and payment
4 terms.
5
- 6 6. The interest earned on the securities or the money market accounts held in escrow
7 and all interest earned on that interest shall be for the sole account of Contractor and
8 shall be subject to withdrawal by Contractor at any time and from time to time without
9 notice to the Owner.
10
- 11 7. Contractor shall have the right to withdraw all or any part of the principal in the Escrow
12 Account only by written notice to Escrow Agent accompanied by written authorization
13 from Owner to the Escrow Agent that Owner consents to the withdrawal of the amount
14 sought to be withdrawn by Contractor.
15
- 16 8. The Owner shall have the right to draw upon the securities or any amount paid directly
17 to Escrow Agent in the event of default by the Contractor. Upon seven (7) days written
18 notice to the Escrow Agent from the Owner of the default, the Escrow Agent shall
19 immediately convert the securities to cash and shall distribute the cash, including any
20 amounts paid directly to Escrow Agent, as instructed by the Owner. Escrow Agent
21 shall not be concerned with the validity of any notice of default given by Owner
22 pursuant to this paragraph, and shall promptly comply with Owner's instructions to pay
23 over said escrowed assets. Escrow Agent further agrees not to interplead the
24 escrowed assets in response to conflicting demands and hereby waives any present
25 or future right of interpleader.
26
- 27 9. Upon receipt of written notification from the Owner certifying that the Contract is final
28 and complete, and that the Contractor has complied with all requirements and
29 procedures applicable to the Contract, Escrow Agent shall release to Contractor all
30 securities and interest on deposit less escrow fees and charges of the Escrow
31 Account. The escrow shall be closed immediately upon disbursement of all moneys
32 and securities on deposit and payment of fees and charges.
33
- 34 10. Escrow Agent shall rely on the written notifications from the Owner and Contractor
35 pursuant to Sections (6), (7), (8) and (9) of this Agreement and the Owner and
36 Contractor shall hold Escrow Agent harmless from Escrow Agent's release and
37 disbursement of the securities and interest as set forth above.
38
- 39 11. Securities eligible for investment under this Agreement, as provided by Public Contract
40 Code Section 22300, shall be those listed in Section 16430 of the Government Code,
41 bank or savings and loan certificates of deposit, interest bearing demand deposit
42 accounts, standby letters of credit, or any other security mutually agreed to by the
43 Contractor and Owner.
44
- 45 12. The venue of any litigation concerning the rights and obligations of the parties to this
46 agreement shall be the County of Fresno and the parties hereto waive the removal
47 provisions of Code of Civil Procedure Section 394.
48
- 49 13. The names of the persons who are authorized to give written notice or to receive
50 written notice on behalf of the Owner and on behalf of Contractor in connection with
51 the foregoing, and exemplars of their respective signatures are as follows:

Contract No.: #20-J-03
20-J-04
20-J-05

General Conditions
00 72 00-36

JOB ORDER CONTRACTS

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On behalf of Owner:

Title – **Business Manager**

Name – **Lemuel Asprec**

Signature _____

Address- **2220 Tulare, 6th Floor
Fresno, CA 93721**

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 Owner and Contractor shall deliver to the Escrow Agent a fully executed counterpart of this Agreement.

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

Owner:

Title – **Steven White, Director
Department of Public Works and Planning**

Signature _____

Address- **2220 Tulare, 6th Floor
Fresno, CA 93721**

Contractor:

Title

Name

Signature _____

Address

Escrow Agent:

Title

Name

Signature

Address

(End Escrow Agreement)

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6. Itemized Breakdown: The Contractor shall submit a financial breakdown of the work, itemized by crafts or sections as designated by the Owner. The Contractor's payment shall be based upon the monthly percentage of completion of these items.
 7. Lien Waivers: The Owner may 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 Section 8132, et seq., and the aggregate sum thereof shall reflect all progress payments previously made.

12 D. CERTIFICATES FOR PAYMENT

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1. The Project Manager shall, within seven (7) 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 Owner for such amounts as the Project Manager determines are properly due, or notify the Contractor in writing of the reasons for withholding a Certificate provided in Part F of this Section 2.24.
 2. The issuance of a Project Certificate for Payment will constitute a representation by the Project Manager to the Owner that, based on the Project Manager's observations at the site as provided herein and the data comprising the Project Application for Payment, the Work has progressed to the point indicated and 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 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 based upon all currently available information, 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 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 Work Order Price.

44 E. PROGRESS PAYMENTS

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1. After the Project Manager has issued a Project Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents.
 2. The Contractor shall promptly pay each Subcontractor upon receipt of payment from the Owner, out of the amount paid to the Contractor on

1 account of such Subcontractor's Work, the amount to which
2 Subcontractor is entitled, reflecting the percentage actually retained, if
3 any, from payments to the Contract on account of such Subcontractor's
4 Work. The Contractor shall, by an appropriate agreement with each
5 Subcontractor, require each Subcontractor to make payments to their
6 Sub-subcontractors in similar manner.
7

8 3. The Project Manager may on request of any Subcontractor, at the
9 Project Manager's discretion, furnish to that Subcontractor, if
10 practicable, information regarding the percentages of completion or the
11 amounts applied for by the Contractor and the action taken thereon by
12 the Project Manager on account of Work done by such Subcontractor.
13

14 4. Neither the Owner nor the Project Manager shall have any obligation to
15 pay or to see to the payment of any monies to any Subcontractor or
16 Material Suppliers except as may otherwise be required by law.
17

18 5. Neither certification of a progress payment, delivery of a progress
19 payment, nor partial or entire use or occupancy of the Project by the
20 Owner, shall constitute an acceptance of any Work not performed in
21 accordance with the Contract Documents.
22

23 F. PAYMENTS WITHHELD
24

25 1. The Project Manager may decline to certify payment and may withhold
26 the Certificate in whole or in part to the extent necessary to reasonably
27 protect the Owner, if, in the Project Manager's opinion, the Project
28 Manager is unable to make representations to the Owner as provided
29 herein above for Certificates for Payment. If the Project Manager is
30 unable to make representations to the Owner and certify payment in
31 the amount of the Project Application, the Project Manager will notify
32 the Contractor as provided herein. If the Contractor and the Project
33 Manager cannot agree on a revised amount, the Project Manager will
34 promptly issue a Project Certificate for Payment for the amount for
35 which the Project Manager is able to make such representations to the
36 Owner. The Project Manager may also decline to certify payment or,
37 because of subsequently discovered evidence or subsequent
38 observations, the Project Manager may nullify the whole or any part of
39 any Project Certificate for Payment previously issued to such extent as
40 may be necessary, in the Project Manager's opinion, to protect the
41 Owner from loss because of:
42

- 43 a. Defective Work not remedied;
- 44 b. Third party claims filed or reasonable evidence indicating
45 probable filing of such claims, including claims by separate
46 contractors;
- 47 c. Failure of the Contractor to make payments properly to
48 Subcontractors, or for labor, materials or equipment;
- 49 d. Architect's determination, based upon reasonable evidence,
50 that the Work cannot be completed for the unpaid balance of
51 the Contract Sum;

1 Terms and Conditions of the Contract Documents and that the entire
2 balance found to be due the Contractor, and noted in said Certificate,
3 is due and payable. The Project Manager's certification of said Project
4 Certificate for Payment will constitute a further representation that the
5 conditions precedent to the Contractor's being entitled to final payment
6 as set forth herein below have been fulfilled.
7

- 8 2. Neither the final payment on each individual Work Order nor the
9 remaining retainage shall become due until the Contractor submits to
10 the Project Manager (1) an affidavit that all payrolls, bills for materials
11 and equipment, and other indebtedness connected with the Work for
12 which the Owner or the Owner's property might in any way be
13 responsible, have been paid or otherwise satisfied, (2) consent of
14 surety, if any, to final payment, and (3) other data establishing payment
15 or satisfaction of all such obligations, such as receipts, releases and
16 waivers of liens arising out of the Contract, to the extent and in such
17 form as may be designated by the Owner. If any Subcontractor refuses
18 to furnish a release or waiver required by the Owner, the Contractor
19 may furnish a bond satisfactory to the Owner to indemnify the Owner
20 against any such lien. The bond cannot be from the original surety
21 insurer for the project or any affiliate of the original surety. If any such
22 lien remains unsatisfied after all payments are made, the Contractor
23 shall refund to the Owner all monies that the latter may be compelled
24 to pay in discharging such lien.
25
- 26 3. All provisions of this Agreement, including without limitation those
27 establishing obligations and procedures, shall remain in full force and
28 effect notwithstanding the making or acceptance of final payment, and
29 the making of final payment shall not constitute a waiver of any claims
30 by the Owner.
31
- 32 4. Upon completion and acceptance of all work whatsoever required on
33 each individual Work Order, and upon the release of all claims against
34 the Owner as specified, the Owner shall file a written Notice of
35 Completion with the County Recorder as to the entire amount of work
36 performed for each individual Project.
37
- 38 5. Final payment will be released within sixty (60) days after the date of
39 acceptance of the Work as reflected in the Notice of Completion filed
40 with the County Recorder's Office; provided, that Owner may withhold
41 from the final payment, in the event of a dispute between Owner and
42 Contractor, retentions in and amount not exceeding 150 percent of the
43 disputed amount. At the Contractor's option, the Owner may release
44 retention upon receipt of an unconditional lien release for the full value
45 of the Work Order and any of its Supplemental Work Orders.
46
- 47 6. All manufacturers' warranties required by the Contract Documents shall
48 commence on the date of the Notice of Completion for the Work. It
49 shall be the Contractor's responsibility, through appropriate contractual
50 arrangements with all subcontractors, materialmen and suppliers, to
51 ensure compliance with this requirement.

1
2 7. The acceptance by the Contractor of the final payment, after the date
3 of Notice of Completion of the Project, shall be and shall operate as a
4 release to the Owner of all claims and of all liability to the Contractor,
5 under the Contract Documents or otherwise, for all things done or
6 furnished in connection with this Work, excepting only the Contractor's
7 claims for interest upon final payment, if such final payment be
8 improperly delayed. No payments, however, final or otherwise, shall
9 operate to release the Contractor or his/her sureties from any
10 obligations under the Contract Documents, including but not limited to
11 the Performance and Payment Bonds.
12

13 2.25 CHANGES TO THE WORK
14

- 15 A. The Owner, without invalidating the Contract or a Work Order, may order
16 changes in the Work within the general scope of the Contract consisting of
17 additions, deletion or other revisions. All such changes in the Work shall be
18 authorized by a Supplemental Work Order, and shall be performed under the
19 applicable conditions of the Contract Documents.
20
21 B. SUPPLEMENTAL Work ORDER: A Work Order issued to add or delete Work
22 from an existing, related Work Order. Only an executed Supplemental Work
23 Order will effectuate change in either the Work Order Price and/or the Work
24 Order Time.
25
26 C. All claims for additional compensation to the Contractor shall be presented in
27 writing before the expense is incurred and will be adjusted as provided herein.
28 No work shall be allowed to lag pending such adjustment, but shall be promptly
29 executed as directed, even if a disputed claim arises. No claim will be
30 considered after the work in question has been done unless a Supplemental
31 Work Order has been issued or a timely written notice of claim has been made
32 by Contractor.
33
34 D. Supplemental Work Orders are developed by the same method as a Work
35 Order as provided under Section 2.09.A, Procedures for Developing a Work
36 Order.
37
38 E. The value of tasks deleted from the Detailed Scope of Work shall be calculated
39 according to the standard procedures for calculating all Pre-priced Tasks and
40 Non Pre-priced Tasks. The result is that a credit for Tasks that have been
41 deleted from the Detailed Scope of Work will be given at 100% of the value at
42 which they were included in the original Price Proposal.
43
44

45 2.26 NOT USED
46

47
48 2.27 SITE CONDITIONS
49

- 50 A. Where investigations have been conducted by the Owner of existing conditions
51 on a site, including subsurface conditions, such investigations are made for the

1 purpose of design only and for the information of bidders. The results of such
2 investigations represent only the statement by the Owner as to the
3 circumstance and character of materials actually encountered by the Owner
4 during the investigations. The Owner makes no guarantee or warranty,
5 express or implied, that the conditions indicated are representative of
6 conditions existing throughout the site of a Project or any part of it, or that
7 unanticipated conditions might not occur.
8

9 B. All excavation work shall be performed on an "unclassified basis"; that is, such
10 work shall include the removal of all material encountered including earth or
11 rock formations, regardless of the type or hardness thereof, or groundwater
12 conditions in the excavation, the cost of such excavations being included in the
13 Work Order Price. Unclassified excavation Work includes drilling or blasting
14 operations.
15

16 C. If site conditions are discovered that materially differ from previous information
17 that the Contractor has received, and that could not have been discovered by
18 the Contractor through prudent and reasonable investigation prior to
19 developing the Work Order Price Proposal for the work, the Contractor shall be
20 compensated for additional costs incurred in working with the unknown site
21 conditions, but only to the extent that such previously unknown and
22 undiscoverable site conditions cause the Contractor to incur costs in addition
23 to the Work Order price for that portion of the work. The Contractor must be
24 able to demonstrate clearly the original Work Order price for that portion of the
25 work (plus any Supplemental Work Orders applicable to that portion of the
26 work) and the additional costs incurred as a direct result of the unknown site
27 conditions. Only additional costs over and above the amount of the Work Order
28 price for that portion of the work will be compensated upon a recommendation
29 of approval by the Project Manager.
30
31

32 2.28 REQUEST FOR EQUITABLE ADJUSTMENT 33

34 A. If the Contractor considers a Request for Equitable Adjustment is justified for
35 any increase in the Work Order Time, the Contractor shall promptly, upon first
36 observance of the condition giving rise to the request, provide the Project
37 Manager and Owner written notice of such condition and circumstance. This
38 notice shall be given by the Contractor before proceeding to execute the Work,
39 except in emergency endangering life or property, in which case the Contractor
40 shall proceed in accordance with the Emergency provisions of these General
41 Conditions. No such request shall be valid unless so made. A Supplemental
42 Work Order shall be required to authorize any change in the Work Order Time
43 resulting from such request for equitable adjustment.
44

45 B. If the Contractor requests that additional cost or time is involved because of,
46 but not limited to, (1) any written interpretation pursuant to Section 2.07.G, (2)
47 any order by the Owner to stop the Work pursuant to Section 2.08 where the
48 Contractor was not at fault, or any such order by the Project Manager as the
49 Owner's agent, (3) any written order for a minor change in the Work issued
50 pursuant to Section 2.29, the Contractor shall make such request for equitable
51 adjustment as provided in Section 2.28.A.

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2.29 MINOR CHANGES IN THE WORK

The Project Manager will have authority to order minor changes in the Work not involving an adjustment in the Work Order Price or extension of the Work Order 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 Owner and the Contractor. The Contractor shall carry out such written orders promptly.

2.30 SUCCESSORS AND ASSIGNS

The Owner and the Contractor, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party hereto 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.

2.31 ASSIGNMENT OF MONEYS

The Contractor shall not assign moneys due or to become due him/her under the contract without the written consent of the Auditor-Controller of Fresno County. Any assignment of moneys shall be subject to all proper set-offs in favor of the County of Fresno and to all deductions provided for in the contract and particularly all money withheld, whether assigned or not, shall be subject to being used by the County of Fresno for the completion of the work in the event that the Contractor should be in default therein.

2.32 GUARANTEE OF WORK

A. The Contractor warrants to the Owner that all materials and equipment and the work as a whole 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, for one (1) year from the date of Notice of Completion of each Project, unless a longer period is otherwise specified. All manufacturer's warranties required by the Contract Documents shall commence on the date of the filing of the Notice of Completion for the Work (which date necessarily will follow the performance under separate contracts. It shall be the Contractor's responsibility, through appropriate contractual arrangements with all subcontractors, material manufacturers and suppliers, to ensure compliance with this requirement. All Work not conforming to these requirements, including substitutions not properly reviewed 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.

- 1 B. If repairs or changes are required in connection with guaranteed work within
2 any guaranteed period, which, in the opinion of the Project Manager is
3 rendered necessary as the result of the use of materials, equipment or
4 workmanship which are inferior, defective, or not in accordance with the
5 Contract Documents, the Contractor shall, promptly upon receipt of notice from
6 the Owner, and without expense to the Owner (1) place in satisfactory condition
7 in every particular all of such guaranteed work, correct all defects therein, and
8 (2) make good all damage to the building or site, or equipment or contents
9 thereof, which, in the opinion of the Project Manager, is the result of the use
10 of materials, equipment or workmanship which are inferior, defective, or not in
11 accordance with the Contract Documents; and (3) make good any work or
12 materials, or the equipment and contents of said building or site disturbed in
13 fulfilling any such guarantee.
14
- 15 C. If the Contractor disturbs any work guaranteed under another contract in
16 fulfilling the requirements of the contract or of any guarantee, embraced in or
17 required thereby, he/she shall restore such disturbed work to a condition
18 satisfactory to the Project Manager and guarantee such restored work to the
19 same extent as it was guaranteed under such other contract.
20
- 21 D. The Owner may have the defects corrected if the Contractor, after notice, fails
22 to proceed promptly to comply with the terms of the guarantee and the
23 Contractor and his/her surety shall be liable for all costs and expenses incurred
24 in connection therewith.
25
- 26 E. All special guarantees applicable to definite parts of the work that may be
27 stipulated in the Contract Documents shall be subject to the terms of this Article
28 2.32 during the first (1st) year (365 Calendar Days) of the life of such special
29 guarantee.
30

31
32 2.33 RESPONSIBILITY FOR DAMAGE
33

- 34 A. Neither the Owner, the Architect, nor any officer or employee of the County,
35 or officer or employee thereof, within the limits of which the work is being
36 performed, shall be answerable or accountable in any manner, for any loss or
37 damage that may happen to the work or any part thereof; or for any of the
38 materials or other things used or employed in performing the work; or for injury
39 to any person or persons, either workmen or the public, for damage to property
40 from any cause which might have been prevented by the Contractor, or his/her
41 workmen, or anyone employed by him/her, against all of which injuries or
42 damages to persons and property the Contractor having control over such work
43 must properly guard.
44
- 45 B. The Contractor shall be responsible for any liability imposed by law for any
46 damage to any person or property resulting from defects or obstructions or
47 from any cause whatsoever during the progress of the work or at any time
48 before the issuance of the Notice of Completion.
49
- 50 C. The Contractor shall indemnify and hold harmless the Owner, the Project
51 Manager, the Architect, and all of their respective officers and employees, from

1 all claims, lawsuits or actions of every kind and nature whatsoever, brought for,
2 or on account of any injuries or damages received or sustained by any person
3 or persons, resulting from any act or admission by the Contractor or his/her
4 servants or agents, in the construction of the work or by or in consequence of
5 any negligence in guarding the same, in improper materials used in its
6 construction, or by or on account of any act or omission of the Contractor or
7 his/her agents in the performance of Contractor's obligations under the
8 Contract Documents. In addition to any remedy authorized by law, so much of
9 the money due the Contractor under and by virtue of the contract as shall be
10 considered necessary by the Owner may be retained by the Owner until
11 disposition has been made of such claims, lawsuits or actions for damages as
12 aforesaid.
13
14

15 2.34 WRITTEN NOTICE

16
17 Subject to any additional requirements that may be applicable to claims under the
18 immediately following Article 2.35 RESOLUTION OF CONTRACT CLAIMS AND
19 DISPUTES, formal service, when required, of written notice shall be deemed to have
20 been duly served if delivered in person, to the individual or member of the firm or
21 entity or to an officer of the corporation for whom it was intended, or if sent by
22 registered or certified mail to the listed address of that entity for the attention of such
23 individual.
24

25
26 2.35 RESOLUTION OF CONTRACT CLAIMS AND DISPUTES

- 27
28 A. A Claim is a demand or assertion sent by registered mail or certified mail with
29 return receipt requested by one (1) of the parties seeking, as a matter of right,
30 adjustment or interpretation of Contract terms, payment of money, extension
31 of time, or a request for equitable adjustment or Supplemental Work Order
32 which cannot be resolved per provisions of Section 2.25 - CHANGES TO THE
33 WORK. Any Claim shall be reduced to writing and filed with the Project
34 Manager, within ten (10) calendar days after the Contractor has notice of the
35 condition giving rise to the Claim, and final action per Section 2.25 - CHANGES
36 TO THE WORK procedures has taken place or has been declared as such in
37 writing, by either party. Such ten (10)-day notice of an asserted claim is in
38 addition to the requirement for prompt notice required per Section 2.25 -
39 CHANGES TO THE WORK.
40
41 B. The Contractor shall not claim or recover any overhead cost administrative or
42 otherwise, particularly 'Home Office' expenses, 'Extended site overhead', or
43 any other overhead cost on the basis of any 'Home Office' damages formula,
44 'Eichleay' formula, 'Total Cost' recovery formula or any other such formula.
45
46 C. REQUIREMENTS FOR FILING A CLAIM. Claims shall be submitted to the
47 Project Manager. Claims must be filed within the time specified above, but in
48 no event shall any claim be considered by the Project Manager that is filed later
49 than the date of final payment of the Project. The claim shall be in writing and
50 shall be a sum certain if known. If unknown, Contractor shall specify the basis
51 for establishing the sum certain. Claim shall include a statement of the reasons
52 for the asserted entitlement, and include the documents necessary to

1 further information and/or documentation or within a period of time no
2 greater than that taken by the claimant in producing the additional
3 information, whichever is greater.
4

5 a. For claims of over fifty thousand dollars (\$50,000) and less
6 than or equal to three hundred seventy-five thousand
7 dollars (\$375,000), the Owner (or his/her designee), shall
8 respond in writing to all written claims within 60 days of
9 receipt of the claim, or may request, in writing, within 30
10 days of receipt of the claim, any additional documentation
11 supporting the claim or relating to defenses to the claim the
12 Owner (or his/her designees) may have against the
13 claimant.
14

15 2. If the claimant disputes the written response of Owner (or his/her
16 designee), or Owner fails to respond within the time prescribed, the
17 claimant may so notify the Owner (or his/her designee), in writing, either
18 within fifteen (15) days of receipt of the Owner (or his/her designee's)
19 response or within fifteen (15) days of the Owner (or his/her designee's)
20 failure to respond within the time prescribed, respectively, and demand
21 an informal conference to meet and confer for settlement of the issues
22 in dispute. Upon a demand, the Owner (or his/her designee) shall
23 schedule a meet and confer conference within thirty (30) days for
24 settlement of the dispute.
25

26 3. Within ten (10) business days following conclusion of the meet and
27 confer conference, any unpaid portion of the claim remaining in dispute
28 shall be submitted to nonbinding mediation, as that term is defined by
29 Public Contract Code Section 9204(d)(2)(C).
30

31 4. If following the conclusion of the meet and confer conference and
32 mediation process, the claim or any portion thereof remains in dispute,
33 the claimant may file a claim pursuant to Chapter 1 (commencing with
34 Section 900) and Chapter 2 (commencing with Section 910) of Part 3
35 of Division 3.6 of Title 1 of the Government Code. For purposes of
36 those provisions, the running of the period of time within which a claim
37 must be filed shall be tolled from the time the claimant submits his/her
38 written claim pursuant to subdivision (a) until the time the claim is
39 denied, including any period of time utilized by the meet and confer
40 conference and mediation process as described in the immediately
41 preceding Paragraphs 2 and 3 of this Section D.
42

43 5. In the event of any perceived conflict between the summary of the
44 procedure set forth in this Article and the actual provisions of the
45 Public Contract Code Section 9204 and Section 20104, et seq. (a true
46 and correct copy of which is attached as Appendix A hereto and
47 incorporated by this reference as though fully set forth herein), the
48 statutory provisions shall control; and in the event of any perceived
49 conflict between the provisions of Section 9204 and Section 20104, et
50 seq., the provisions of Section 9204 shall control.
51

1 completion of the Work. However, Contractor must submit all disputes in
2 accordance with the provisions of this Section 2.35.

- 3
4 I. SUIT IN FRESNO COUNTY ONLY. Any litigation arising out of this Contract
5 shall be brought in Fresno County and Contractor hereby waives the removal
6 provisions of California Code of Civil Procedure Section 394.
7

8
9 2.36 PERFORMANCE BOND, LABOR AND MATERIAL PAYMENT BOND AND
10 WARRANTY BOND
11

- 12 A. The Contractor shall furnish Performance Bond in the amount of one hundred
13 percent (100%) of the Contract Sum, and Payment Bond in the amount of one
14 hundred percent (100%) of the Contract Sum and One Year Warranty Bond in
15 the amount of ten percent (10%) of the Final Contract Sum, which is the
16 cumulative amount that will have been paid to Contractor for all of the Work
17 performed under the Contract once the Project has been completed and the
18 Work has been accepted by the County.
19

- 20 B. All bonds required, whether Bid bonds, Performance, Payment, Warranty or
21 other bonds, shall be issued by an admitted surety insurer authorized by the
22 California Insurance Commissioner to transact surety insurance in the state.
23 The same admitted surety insurer must issue the Bid Bond, Performance
24 Bond, Payment Bond, and Warranty Bond. The payment, performance and
25 warranty bonds required by these specifications will neither be accepted nor
26 approved by the Owner unless the bonds are underwritten by an admitted
27 surety and the requirements of California Code of Civil Procedure section
28 995.630 are met. The bonds must include a physical mailing address, phone
29 number, FAX number, and contract person for the admitted surety insurer. The
30 Owner further reserves the right to satisfy itself as to the acceptability of the
31 surety and the form of bond. Upon request of the Owner, the bidder must
32 submit the following documents:
33

- 34 1. The original, or a certified copy, of the unrevoked appointment, power
35 of attorney, bylaws, or other instrument authorizing the person who
36 executed the bond to do so.
37
38 2. A certified copy of the certificate of authority of the insurer issued by
39 the California Insurance Commissioner.
40
41 3. A certificate from the county clerk that the certificate of authority has
42 not been surrendered, revoked, canceled, annulled, or suspended, or
43 in the event that it has, that renewed authority has been granted.
44
45 4. A financial statement of the assets and liabilities of the insurer to the
46 end of the quarter calendar year prior to thirty (30) days next preceding
47 the date of the execution of the bond, in the form of an officers'
48 certificate as defined in Corporations Code section 173.
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51 2.37 RIGHTS AND REMEDIES

Contract No.: #20-J-03
20-J-04
20-J-05

General Conditions
00 72 00-50

JOB ORDER CONTRACTS

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3. The Contractor shall carry the Work forward expeditiously with adequate forces and shall achieve Completion of the Work within the Work Order Completion Time.

C. DELAYS AND EXTENSIONS OF TIME

1. Delays in prosecution of parts or classes of the Work that are not demonstrated to prevent or delay completion of an entire Project or specific milestones within the Work Order Completion Time are not "unavoidable delays" for purposes of this section.
2. In all cases, the time authorized for extension of the Work Order Completion Time shall be no greater than the number of days directly attributable to the event or circumstances which causes unavoidable delay in the completion of a Project. Contractor shall be entitled, in the case of unavoidable delays, to an extension in the Work Order Completion Time, but not to any increase to the Work Order Price. "Unavoidable delay" for this purpose shall be defined as follows:
 - a. Unavailable Materials. That materials or articles called for in the Contract Documents are not obtainable within the time required for timely completion; provided that such materials or articles were listed by the Contractor in the schedule required by Section 2.17 - CONTRACTOR'S CONSTRUCTION SCHEDULE; that the Contractor demonstrates that the unavailability of the materials is in fact the cause for the delay, and could not have been avoided by an appropriate adjustment in 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 Owner, at its sole discretion, may grant a time extension.
 - b. 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 acts of God, war, insurrection, civil disorder, fire, floods, epidemic, or strikes.
 - c. Unseasonable Weather. An extension of Work Order Completion Time may be granted due to weather which is unsuitable for the Work currently in progress, upon the determination of the Owner that the weather conditions in fact caused the delay in completion of a 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

1 foresight and diligence, should be expected in the area at the
2 time of year in question is not cause for an extension of time.

3
4 d. Time Extensions Due to Supplemental Work Orders or Work
5 Authorizations. A time extension may be granted due to
6 additional work that results in a delay in a Project caused by the
7 approval by the Owner of a Supplemental Work Order or Work
8 Authorization. The Contractor shall be entitled to a Work Order
9 Completion Time extension Supplemental Work Order only
10 when the extra Work is demonstrated by the Contractor to have
11 caused a delay in a Project.

12
13 e. Owner Caused Delays. In the event that a Project is delayed
14 by acts of the Owner not authorized by the Contract Documents
15 which the Contractor demonstrates will or have caused an
16 unavoidable delay, the Contractor shall be entitled to a Work
17 Order Completion Time Supplemental Work Order to offset the
18 extra time incurred by the Contractor. The Contractor will not
19 be entitled to adjustments in the Work Order Price. Extra time
20 shall be limited to that which is directly identified as critical by
21 the delay.

22
23 4. The Contractor specifically agrees that a time extension as provided
24 herein is its sole remedy for Owner-caused delays, and agrees to make
25 no claim or demand for additional damages, nor claim an acceleration
26 of the time for performance.

27
28 5. The Contractor shall not be entitled to any Work Order Completion Time
29 extension nor Work Order Price adjustment for alleged Owner delays if
30 the Owner has acted within the time limits specified by the Contract
31 Documents.

32
33 D. NOTICE OF DELAYS

34
35 1. Contractor shall notify the Project Manager promptly whenever the
36 Contractor foresees any event or circumstance that may delay the
37 prosecution of the Work and in Contractor's opinion may provide
38 grounds for an extension, and shall in any event notify the Project
39 Manager immediately upon the occurrence of any such delay. The
40 Contractor shall take immediate steps to prevent, if possible, the
41 occurrence or continuance of the delay. If this cannot be done, the
42 Project Manager shall determine how long the delay shall continue and
43 to what extent the prosecution and completion of the Work are being
44 delayed thereby. Such notification shall specify with detail the cause
45 asserted by the Contractor to constitute grounds for an extension.
46 Failure of the Contractor to submit such a notice within ten (10) days
47 after the initial occurrence of the event-giving rise to the delay shall
48 constitute a waiver by the Contractor of any request for a time
49 extension, and no extension shall be granted as a consequence of such
50 delay.
51

2. If the Contractor believes that the delay in prosecution in the Work will result in an unavoidable delay in completion of the entire Project, the Contractor shall submit evidence to support that belief, together with its request for a time extension. 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 Construction Schedule, which accounts for the delay in completion of the entire Project caused by the delay in prosecution of part of the Project, and includes a revised Critical Path demonstrating how the Project will be completed within the proposed revised Work Order Completion Time.

E. INVESTIGATION; PROCEDURE.

1. Upon receipt of a request for 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 Owner. The performance of this investigation by the Project Manager shall not be construed 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 Supplemental Work Order request.
3. Upon receiving the Project Manager's recommendation to the Owner 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 Owner. If the Owner disallows 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 Owner approves the time extension Supplemental Work Order, the new Construction Schedule submitted by the Contractor and approved by the Owner shall be deemed to amend the original Construction Schedule approved by the Owner; thereafter, the amended Construction Schedule shall have the same force and effect as the originally approved Progress Schedule.
5. The revised Construction Schedule must be submitted within seven (7) calendar days of the date in which the Owner approves the change.
6. The Contractor agrees that the Owner's determination as to the existence of grounds for an extension and, the duration of any such extension, shall be final and binding upon both Owner and Contractor.

1 F. DISCRETIONARY TIME EXTENSION FOR BEST INTEREST OF OWNER

- 2
- 3 1. The Owner reserves the right to extend the Work Order Completion
- 4 Time for completion of the Work if the Director of Public Works and
- 5 Planning or designee determines that such extension is in the best
- 6 interest of the Owner.
- 7
- 8 2. In the event that such discretionary extension is made at the request of
- 9 the Contractor, the Owner shall have the right to charge to the
- 10 Contractor all or any part, as the Board may deem proper, of the actual
- 11 cost to the Owner for engineering, inspection, supervision, contract
- 12 administration, incidental and other overhead expenses that accrue
- 13 during period of such extension, and to deduct all or any portion of such
- 14 amounts from the final payment for the Work Order.
- 15
- 16 3. In the event such extension is ordered over the objection of the
- 17 Contractor, the Contractor shall be entitled to a Supplemental Work
- 18 Order adjusting the price paid to reflect the actual costs incurred by the
- 19 Contractor as a direct and proximate result of the delay, upon his/her
- 20 written application therefor, accompanied by such verification of costs
- 21 as the Project Manager requires. Only additional direct costs incurred
- 22 at the site will be reimbursable by Supplemental Work Order.

23

24 G. LIQUIDATED DAMAGES

- 25
- 26 1. If the Work is not completed by Contractor in the time specified in the
- 27 Work Order or within any period of extension authorized pursuant to
- 28 this Article, the Contractor acknowledges and admits that the Owner
- 29 will suffer damage, and that it is impracticable and infeasible to fix the
- 30 amount of actual damages. Therefore, it is agreed by and between the
- 31 Contractor and the Owner that the Contractor shall pay to the Owner
- 32 as fixed and liquidated damages, and not as a penalty, the sum
- 33 specified in Section 005213, Agreement, Article III for each calendar
- 34 day of delay until the Work is completed and accepted, and that both
- 35 the Contractor and the Contractor's surety shall be liable for the total
- 36 amount thereof, and that the Owner may deduct said sums from any
- 37 monies due or that may become due to the Contractor.
- 38
- 39 2. This liquidated damages provision shall apply to all delays of any nature
- 40 whatsoever, save and except only unavoidable delays approved by the
- 41 Owner pursuant to the provisions of Article 2.38.C.2 hereinabove, or
- 42 discretionary time extensions approved by the Board of Supervisors
- 43 pursuant to the provisions of Article 2.38.F hereinabove.

44

45 H. EXTENSION OF TIME NOT A WAIVER.

- 46
- 47 1. Any extension of a Work Order Completion Time granted pursuant to
- 48 this Article shall not constitute a waiver by the Owner, nor a release of
- 49 the Contractor, from his/her obligations to perform a Work Order within
- 50 the allotted Work Order Completion Time.
- 51

- 1 2. Granting of a time extension due to one (1) circumstance on one (1)
2 request therefore shall not constitute a granting by the Owner of an
3 extension of time for any other circumstance or the same circumstance
4 occurring at some other time, and shall not be interpreted as a
5 precedent for any other request for extension.
6

7
8 2.39 PROTECTION OF PERSONS AND PROPERTY
9

10 A. SAFETY PRECAUTIONS AND PROGRAMS
11

12 The Contractor shall be responsible for initiating, maintaining and supervising
13 all safety precautions and programs in connection with the Work.
14

15 B. SAFETY OF PERSONS AND PROPERTY
16

17 The Contractor shall take all reasonable precautions for the safety of, and shall
18 provide all reasonable protection to prevent damage, injury or loss to:
19

- 20 1. All employees on the Work and all other persons who may be affected
21 thereby;
22
23 2. All the work and all materials and equipment to be incorporated therein,
24 whether in storage or off the site, and that is under the care, custody or
25 control of the Contractor or any of the Contractor's Subcontractors or
26 Sub-subcontractors;
27
28 3. Other property at the site or adjacent thereto, including trees, shrubs,
29 lawns, walks, pavements, roadways, structures and utilities not
30 designated for removal, relocation or replacement in the course of
31 construction; and
32
33 4. The work of the Owner or other separate contractors.
34

35 C. The Contractor shall give all notices and comply with all applicable laws,
36 ordinances, rules, regulations and lawful orders of any public authority bearing
37 on the safety of persons or property or their protection from damage, injury or
38 loss.
39

40 D. The Contractor shall erect and maintain, as required by existing conditions and
41 the progress of the Work, all reasonable safeguards for safety and protection,
42 including posting danger signs and other warnings against hazards,
43 promulgating safety regulations and notifying owners and users of adjacent
44 facilities.
45

46 E. When the use or storage of explosives or other hazardous materials or
47 equipment is necessary for the execution of the Work, the Contractor shall
48 exercise the utmost care and shall carry on such activities under the
49 supervision of properly qualified personnel.
50

1 F. The Contractor shall promptly remedy all damage or loss to any property
2 referred to above caused in whole or in part by the Contractor, any
3 Subcontractor, any Sub-subcontractor, anyone directly or indirectly employed
4 by any of them, or any one for whose acts any of them may be liable, and for
5 which the Contractor is responsible under the above noted clauses, except
6 damage or loss attributable solely to the acts or omissions of the Owner, the
7 Project Manager, or anyone directly or indirectly employed by any of them, or
8 by anyone for whose acts any of them may be liable, and not attributable in
9 any degree to the fault or negligence of the Contractor. The foregoing
10 obligations of the Contractor are in addition to the Contractor's obligations
11 under the Indemnification provisions provided herein.

12
13 G. The Contractor shall designate a responsible member of the Contractor's
14 organization at the site whose duty shall be the prevention of accidents. This
15 person shall be the Contractor's superintendent unless otherwise designated
16 by the Contractor in writing to the Owner and the Project Manager.

17
18 H. The Contractor shall not load or permit any part of the Work to be loaded
19 in a manner that could endanger its safety or pose a risk to anyone working
20 at the Project site.

21
22 I. EMERGENCIES

23 In any emergency affecting the safety of persons or property the Contractor
24 shall act, at the Contractor's discretion, to prevent threatened damage, injury
25 or loss. Any additional compensation or extension of time claimed by the
26 Contractor on account of emergency work shall be determined as provided in
27 the provisions herein for Changes in the Work.

28
29
30 2.40 INSURANCE

31
32 A. CONTRACTOR'S INSURANCE

33
34 1. Bidders' attention is directed to the insurance requirements below. It is
35 highly recommended that Bidders confer with their respective
36 insurance carriers or brokers to determine in advance of bid submission
37 the availability of the insurance certificates and endorsements required
38 below. A bidder who is awarded a contract and thereafter fails to
39 comply strictly with the insurance requirements, will be deemed to be
40 in default of its obligations.

41
42 2. Contractor shall procure, and maintain for the duration of the Contract,
43 and for 3 years thereafter, insurance against claims for injuries to
44 persons or damage to property which may arise from or in connection
45 with the performance of the work hereunder by the Contractor, his/her
46 agents, representatives, employees or Subcontractors. The cost of
47 such insurance shall be included in the Contractor's bid.

48
49 3. No later than ten (10) calendar days following the Award of the
50 Contract, and prior to execution of the Agreement for Construction by
51 the Owner, the Contractor shall submit certificates of insurance, signed

1 by an authorized agent of the insurer, attesting to insurance coverage
2 of the Contractor as required by this Article.
3

4 B. MINIMUM SCOPE OF INSURANCE.
5

6 Coverage shall be at least as broad as:
7

- 8 1. Insurance Services Office Commercial General Liability coverage
9 ("occurrence" form CG0001).
10
- 11 2. Insurance Services Office Business Auto Coverage form number CA
12 0001 0187 covering Automobile Liability, code 1 "any auto".
13
- 14 3. Workers' Compensation insurance as required by the Labor Code of
15 the State of California and Employers Liability insurance.
16

17
18 C. MINIMUM LIMITS OF INSURANCE.
19

20 Contractor shall maintain limits no less than:
21

- 22 1. General Liability: One million dollars (\$1,000,000.00) combined single
23 limit per occurrence for bodily injury, personal injury and property
24 damage. If Commercial General Liability Insurance or other form with
25 a general aggregate limit is used, either the general aggregate limit
26 shall apply separately to this project/location or the general aggregate
27 limit shall be three times the required occurrence limit.
28
- 29 2. Automobile Liability: One million dollars (\$1,000,000.00) combined
30 single limit per accident for bodily injury and property damage.
31
- 32 3. Workers' Compensation and Employers Liability: Workers'
33 compensation limits as required by the Labor Code of the State of
34 California and Employers Liability limits of one million dollars
35 (\$1,000,000.00) per accident.
36

37 D. DEDUCTIBLES AND SELF-INSURED RETENTIONS.
38

39 Any deductibles or self-insured retentions must be declared to and approved
40 by the Owner. If approved at the option of the Owner, either: the insurer shall
41 reduce or eliminate such deductibles or self-insured retentions as respects the
42 Owner, its officers, officials, employees and volunteers; or the Contractor shall
43 procure a bond guaranteeing payment of losses and related investigations,
44 claim administration and defense expense.
45

46 E. OTHER INSURANCE PROVISIONS.
47

48 The policies are to contain, or be endorsed to contain, the following provisions:
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- 50 1. Fire Insurance / Builders Risk Insurance.
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- a. At the Owner's option, the Contractor shall secure "All Risk" type Builder's Risk Insurance for the Work to be performed pursuant to this Agreement for an individual Work Order. The policy shall cover not less than losses due to fire, explosion, vehicle damage, theft, flood, earthquake and civil commotion with no coinsurance penalty provision.

- b. The Contractor shall obtain and keep in force insurance against loss or damage by fire and the customary extended perils including windstorm, hail, explosion, aircraft, vehicle, smoke, riot, and civil commotion, vandalism, sprinkler leakage (including earthquake) as covered under the standard forms of California Standard Fire Insurance Policy for school projects or Factory Insurance Association and/or Factory Mutual Insurance Company for projects other than schools. The policy shall cover the entire structure on which the work of this contract is to be done, up to the full insurable value thereof, including items of labor and materials connected therewith on the site, materials in place or to be used as part of the permanent construction including materials stored and partially paid for by the Owner as provided in Division 01 – General Requirements, surplus materials, shanties, protective fences, bridges, or temporary structures, miscellaneous materials and supplies incident to the work, and such scaffolding, staging, towers, forms and equipment as are not owned or rented by the Contractor, the cost of which is included in the cost of the work. EXCLUDED: This insurance does not cover any tools owned by mechanics, any tools, equipment, scaffolding, staging, towers, and forms owned or rented by the Contractor, the capital value of which is not included in the cost of the Work, or any structures erected for the Contractor's administration of the Project. The loss, if any, is to be adjustable with and payable to the Owner as trustee for the insured as their interests may appear, except in such cases as may require payment of all or a proportion of said insurance to be made to a mortgagee or trustee as its interest may appear.

- c. The Owner shall be named as insured jointly with the Contractor and other proper parties, all as their respective interests may appear. All subcontractors shall be insured to the extent of their portion of the work under the Contractor. The Owner, Contractor and all subcontractors waive all rights, each against the others, for damages caused by fire or other perils covered provided under the terms of this article, except such rights as they may have to the proceeds of the insurance held by the party obtaining and maintaining the insurance policy in force who acts as trustee of said policy. Certificates of such insurance shall be filed with the Owner. If the Contractor fails to effect or maintain insurance as above and so notifies the Owner, the Owner may insure his own interest and charge the cost thereof to the Contractor.

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d. In the event of a partial or total destruction by the perils insured against, of any or all of the work and/or materials herein provided for, at any time prior to the final completion of the Contract and the final acceptance by the Owner of the Work or materials to be performed or supplied thereunder, the Contractor shall promptly reconstruct, repair, replace, or restore all work or materials so destroyed or injured at his sole cost and expense. Nothing herein provided for shall in any way excuse the Contractor or his surety from the obligation of furnishing all the required materials and completing the work in full compliance with the terms of the Contract.

2. Commercial General Liability and Automobile Liability Coverages.

a. The Contractor shall secure Commercial General Liability Insurance with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence and an annual aggregate of Three Million Dollars (\$3,000,000.00). This policy shall be issued on a per occurrence basis. The Owner may require specific coverage including completed operations, product liability, contractual liability, XCU, fire legal liability or any other liability insurance deemed necessary because of the nature of the contract. The Owner, its officers, officials, employees, agents, including Consulting Engineers while performing contract administration services, and volunteers are to be covered as insured as respects all of the following: 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 automobiles owned, leased, hired or borrowed by or on behalf of the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the Owner, its officers, officials, employees or volunteers.

b. The Contractor's insurance coverage shall be primary insurance as respects the owner, its officers, officials, employees, agents, Consulting Engineers, and volunteers. Any insurance or self-insurance maintained by the Owner, its officers, officials, Employees, agents, Consulting Engineers, or volunteers shall be in 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 Owner, its officers, officials, employees, agents, Engineers, Consulting Engineers, or volunteers.

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- 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.
- e. Such Commercial General Liability insurance shall name the County of Fresno, its officers, agents, and employees, individually and collectively, as additional insured, but only insofar as the operations under this Agreement are concerned. Such coverage for additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained by Owner, its officers, agents and employees shall be excess only and not contributing with insurance provided under Contractor's policies herein. This insurance shall not be cancelled or changed without a minimum of thirty (30) days advance written notice given to Owner. Contractor shall obtain endorsements to the Commercial General Liability insurance policy naming Owner as an additional insured and providing for a thirty (30) day prior written notice of cancellation or change in terms or coverage
- f. Comprehensive Automobile Liability Insurance with limits of not less than One Million Dollars (\$1,000,000) per accident for bodily injury and property damage. Coverage should include owned and non-owned vehicles used in connection with this Agreement and all applicable endorsements.

3. Professional Liability Coverage.

If Contractor employs licensed professional staff, (e.g., Ph.D., R.N., L.C.S.W., M.F.C.C.) in providing services, the Contractor shall secure Professional Liability Insurance with limits of not less than one million dollars (\$1,000,000.00) per occurrence, and three million dollars (\$3,000,000.00) annual aggregate, with a provision for three (3) year tail coverage.

4. Worker's Compensation and Employers Liability Coverage.

The Contractor shall obtain a policy of Worker's Compensation insurance in accordance with applicable provisions of the California Labor Code. The insurer shall agree to waive all rights of subrogation against the Owner, its officers, officials, employees and volunteers for losses arising from work performed by the Contractor for the Owner. Contractor shall supply the Owner with certificates of insurance in triplicate, evidencing that Workers Compensation Insurance is in effect and providing that the Owner will receive 30 days' notice of cancellation. If Contractor self-insures Workers Compensation, Certificate of Consent to Self-Insure shall be provided to the Owner.

5. All Coverages.

1 Prior to the commencement of performing its obligations under this
2 Agreement, Contractor shall provide certificates of insurance and upon
3 request from Owner, formal endorsements for the foregoing policies, as
4 required herein, to the Owner, listing the name and address of the
5 official who will administer this contract, and stating that such insurance
6 coverage have been obtained and are in full force; that the County of
7 Fresno, its officers, agents and employees will not be responsible for
8 any premiums on the policies; that such Commercial General Liability
9 insurance names the County of Fresno, its officers, agents and
10 employees, individually and collectively, as additional insured, but only
11 insofar as the operations under this Agreement are concerned; that
12 such coverage for additional insured shall apply as primary insurance
13 and any other insurance, or self-insurance, maintained by Owner, its
14 officers, agents and employees, shall be excess only and not
15 contributing with insurance provided under Contractor's policies herein;
16 and each insurance policy required by this Section 2.40 shall be
17 endorsed to state that coverage shall not be suspended, voided,
18 canceled by either party, reduced in coverage or in limits except after
19 thirty (30) days' prior written notice has been given to the Owner.

20
21 F. ACCEPTABILITY OF INSURERS

22 Contractor shall obtain the policies and coverages specified herein from an
23 admitted insurer in good standing with and authorized to transact business in
24 this state by the California Department of Insurance, and having a **Best's**
25 **rating of no less than A FSC VIII.**

26
27
28 G. VERIFICATION OF COVERAGE

29 Contractor shall furnish the Owner with certificates of effecting coverage
30 required by this clause. The certificates for each insurance policy are to be
31 signed by a person authorized by that insurer to bind coverage on its behalf.
32 All certificates are to be received and approved by the owner before work
33 commences. The Owner reserves the right to require complete, certified
34 copies of all required insurance policies, at any time. In the event Contractor
35 fails to keep in effect at all times insurance coverage as herein provided, the
36 Owner may, in addition to other remedies it may have, suspend or terminate
37 this Agreement upon the occurrence of such event. The Certificate of
38 Insurance shall be issued in triplicate, and provided to the Owner within ten
39 (10) days of award, and also shall be provided to all other participating
40 agencies who contribute to the cost of the work or have jurisdiction over areas
41 in which the work is to be performed and all officers and employees of said
42 agencies while acting within the course and scope of their duties and
43 responsibilities.

44
45
46 H. SUBCONTRACTORS

47 Contractor shall include all Subcontractors as insured under its policies or shall
48 furnish separate certificates and endorsements for each Subcontractor. All
49 coverages for Subcontractors shall be subject to all of the requirements stated
50 herein.
51

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2
3 2.41 UNCOVERING WORK
4

- 5 A. This Section shall apply to any Work installed and covered up by the
6 Contractor that is required by the Building Code or other statutory or
7 regulatory requirement to undergo inspection or special inspection and/or
8 testing approval by an appropriate official representing the Owner or other
9 public authority having jurisdiction to conduct such inspection and/or testing
10 or by any requirements specifically expressed in the Contract Documents.
11 Work covered up by the Contractor, Contractor's Subcontractor's or
12 Suppliers prior to inspection/special inspection and/or testing approval shall
13 be uncovered and repaired or replaced after inspection approval at the sole
14 expense of the Contractor. This shall apply to all labor and material needed
15 to complete both physical and cosmetic repairs, and any additional
16 inspection costs associated with restoring the Work.
17
18 B. This Section also shall apply to any Work installed and covered up by the
19 Contractor, Contractor's Subcontractor's or Suppliers that is determined by the
20 Owner or its Project Manager, during construction or within the Warranty
21 period, to be defective, broken or inoperative. Work covered up by the
22 Contractor, Contractor's Subcontractor's or Suppliers that is found to be
23 defective, broken or inoperative shall be uncovered and repaired or replaced
24 at the sole expense of the Contractor. This shall apply to all labor and material
25 needed to complete both physical and cosmetic repairs, and any additional
26 inspection costs associated with restoring the Work.
27
28

29 2.42 CORRECTION OF WORK
30

- 31 A. The Contractor shall promptly correct all Work rejected by the Project Manager
32 as defective or as failing to conform to the Contract Documents, whether or not
33 fabricated, installed or completed. The Contractor shall submit a plan of action,
34 within twenty-four (24) hours of notification of the rejected work by the Project
35 Manager, for correcting the rejected work. The Contractor shall bear all costs
36 of correcting such rejected Work, including compensation for the Engineer's
37 and Architect's additional services made necessary thereby.
38
39 B. If, within one (1) year after the date of acceptance of the Work as specified in
40 the Notice of Completion, or designated portion thereof, or within one (1) year
41 after acceptance by the Owner of designated equipment, or within such longer
42 period of time as may be prescribed by the terms of any applicable special
43 warranty required by the Contract Documents, any of the Work is found by
44 Owner to be defective or not in accordance with the Contract Documents, the
45 Contractor shall correct it promptly after receipt of a written notice from the
46 Owner to do so, unless the Owner has previously given the Contractor a written
47 acceptance of such condition. This obligation shall survive both final payment
48 for the Work or designated portion thereof and termination of the Contract. The
49 Owner shall give such notice promptly after discovery of the condition.
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- C. The Contractor shall, at his/her sole expense, remove from the site all portions of the Work that are defective or nonconforming and which have not been corrected under Articles 2.32, 2.42.A, and 2.42.B, unless the Owner waives removal.
- D. If the Contractor fails to submit a plan of action, within twenty-four (24) hours of notification of the rejected work by the Project Manager, for correcting the rejected work, or fails to correct defective or nonconforming Work as provided herein in Articles 2.32, 2.42.A, and 2.42.B, the Owner may correct it in accordance with Article 2.08.C.
- E. If the Contractor does not take action under the plan to initiate such correction of such defective or nonconforming Work within ten (10) days of written notice from the Project Manager, the Owner 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 (10) days thereafter, the Owner may, upon ten (10) 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, Architect, or other Professional's additional services made necessary thereby. If such proceeds of sale do not cover all costs that the Contractor should have borne, the difference shall be charged to the Contractor and an appropriate Supplemental Work 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 Owner.
- F. The Contractor shall bear the cost of making good all work of the Owner or separate contractors destroyed or damaged by such correction or removal.
- G. Nothing contained in this Section 2.42 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 Section 2.32 hereof. The establishment of the time periods noted in this Section 2.42, 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 defective or nonconforming 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 defective or nonconforming Work.

2.43 ACCEPTANCE OF DEFECTIVE OR NONCONFORMING WORK

If the Owner prefers to accept defective or nonconforming Work, the Owner may do so instead of requiring its removal and correction, in which case a Supplemental Work Order will be issued to reflect a reduction in the Work Order Price where appropriate and equitable. Such adjustment shall be effected whether or not final payment has

1 been made. Project Manager shall determine the amount of reduction in the Work
2 Order Price.
3

4
5 2.44 TERMINATION BY THE OWNER
6

7 A. If the Contractor is adjudged bankrupt, or makes a general assignment for the
8 benefit of creditors, or if a receiver is appointed on account of the Contractor's
9 insolvency, or stop notices are served upon the Owner, or if the Contractor
10 persistently or repeatedly refuses or fails, except in cases for which extension
11 of time is provided, to supply enough properly skilled workers or proper
12 materials, or fails to make prompt payment to Subcontractors or for materials
13 or labor, or persistently disregards applicable laws, ordinances, rules,
14 regulations or orders of any public authority having jurisdiction, or otherwise is
15 guilty of a substantial violation of a provision of the Contract Documents, and
16 fails after written notice to commence and continue correction of such default,
17 neglect or violation with diligence and promptness, the Owner upon
18 certification by the Project Manager that sufficient cause exists to justify such
19 action, may, after an additional written notice and without prejudice to any other
20 remedy the Owner may have, terminate the Contract and take possession of
21 all materials, equipment, tools, construction equipment and machinery thereon
22 owned by the Contractor and may finish the Work by whatever methods the
23 Owner may deem expedient. In such case the Contractor shall not be entitled
24 to receive any further payment until the Work is finished.
25

26 B. If the unpaid balance of the Work Order Price exceeds the costs of finishing
27 the Work, including compensation for the Project Manager's and Architect's
28 additional services made necessary thereby, Contractor will only be paid for
29 his/her actual unpaid costs from such excess. If such costs exceed the unpaid
30 balance, the contractor shall pay the difference to the Owner. The amount to
31 be paid to the Contractor or to the Owner, as the case may be, shall be certified
32 by the Project Manager, upon application, in the manner provided in Section
33 2.24 and this obligation for payment shall survive the termination of the
34 Contract.
35

36
37 2.45 SUBSTITUTION OF MATERIALS
38

39 A. When a specific manufacturer, trade name or material is specified, or indicated,
40 it is to establish a standard of quality and shall not be construed as limiting
41 competition. The intent of the Contract Documents is to specify high-grade
42 standard material and equipment, and it is not the intent of these Contract
43 Documents to exclude or omit the products of any responsible manufacturer, if
44 such products are equally acceptable in terms of quality, finish, performance,
45 durability, and serviceability, in the judgment of the Owner and the Architect,
46 to those specified herein. Wherever an article, or any class of materials, is
47 specified by the trade name or by the name of any particular patentee,
48 manufacturer or dealer, it shall be taken as intending to mean and specify the
49 article of material described or any other equal thereto in quality, finish,
50 performance, durability, and serviceability, in the judgment of the Owner and
51 the Architect, for the purpose for which it is or they are intended.

1 Contractor in dividing the Work among Subcontractors or in establishing the
2 extent of the Work to be performed by any trade. The Contractor shall be
3 responsible for examining all Sections of the Specifications for inter-related
4 items of the Work, and for furnishing each item identified or specified.
5

6 B. No responsibility will be assumed by the Owner, Architect or the Project
7 Manager for omissions or duplications by the Contractor in the completion of
8 the Contract due to any alleged discrepancy in the arrangement of the material
9 in these Specifications, nor shall any such segregation of work and materials
10 operate to make the Project Manager an arbiter in defining the limits to the
11 agreements between the Contractor and his/her Subcontractors or suppliers.
12

13 C. The misplacement, addition or omission of any letter, word or punctuation mark
14 shall in no way damage the true spirit, intent or meaning of these
15 Specifications.
16

17 D. The words "shown", "indicated", "noted", "scheduled" or words of that effect
18 shall be understood to mean that reference is made to Drawings
19 accompanying these Specifications.
20

21 E. Where reference herein is made to colors or finishes "as selected", the
22 reference is to the Architect with concurrence by the Owner.
23
24

25 2.48 APPROVED APPLICATORS

26
27 A. Where specific instructions in these Specifications require that a particular
28 product and/or materials be installed and/or applied by an "approved
29 applicator" of the manufacturer, it shall be the Contractor's responsibility to
30 insure that any Subcontractors used for such work be approved applicators.
31

32 B. Contractor accordingly shall bear any and all costs, and shall reimburse Owner
33 for any such costs incurred by Owner, resulting from Contractor's failure to
34 insure the use of an "approved applicator".
35
36

37 2.49 DELIVERY AND STORAGE OF MATERIALS

38
39 A. Deliver all manufactured materials in the original packages, containers or
40 bundles (with the seals intact), bearing the name or identification mark of all
41 manufacturers.
42

43 B. Deliver fabrications in as large assemblies as practicable and where specified
44 to be shop-primed or shop-finished; they shall be packaged or crated as
45 required to preserve such priming or finish intact and free from abrasion.
46

47 C. Store all materials in such manner as necessary to properly protect same from
48 damage, as materials or equipment damaged by handling, weather, dirt or from
49 any other cause will not be acceptable.
50

- 1 D. Store materials so as to cause no obstructions (i.e. stored off all sidewalks and
2 other walkways, roadways, and underground services). The Contractor shall
3 be responsible for protecting from damage all material and equipment
4 furnished under the Contract.
5
6

7 2.50 QUALITY OF WORK
8

- 9 A. Where not more specifically described in any of the various Sections of these
10 Specifications, the quality of work shall conform to all of the methods and
11 operations of best standards and accepted practices of the trade or trades
12 involved, and shall include all items of fabrication, construction, or installation
13 regularly furnished or required for completion of the work (including any finish),
14 and for successful operation as intended of the project and the component
15 thereof corresponding to that work.
16
17 B. All Work shall be executed by mechanics skilled in their respective lines of
18 work.
19
20 C. When completed, all parts shall have been durably and substantially built and
21 shall present a neat, finished appearance.
22

23
24 2.51 HOURS OF WORK
25

- 26 A. Eight (8) hours of labor shall constitute a legal day's work upon all work done
27 hereunder, and it is expressly stipulated that no worker employed at any time
28 by the Contractor, or by a Subcontractor under this Contract, upon the Work,
29 shall be required or permitted to work thereon more than eight (8) hours in any
30 one (1) calendar day and forty (40) hours in any one (1) calendar week, except
31 as provided in Sections 1810-1815 inclusive, of the Labor Code of the State of
32 California, all the provisions of which are deemed to be incorporated herein as
33 if set forth in full; and it is further expressly stipulated that for each and every
34 violation of said last named stipulation, said Contractor shall forfeit, as a
35 penalty to the Owner, fifty dollars (\$50.00) for each worker employed by the
36 Contractor in the execution of this Contract, for each calendar day during which
37 said worker is required or permitted to labor more than eight (8) hours in any
38 one (1) calendar day and forty (40) hours in any one (1) calendar week in
39 violation of any of said provisions of the Labor Code.
40
41 B. Notwithstanding the above stipulations, pursuant to Section 1815 of the Labor
42 Code, work performed by employees of contractors in excess of eight (8) hours
43 per day and forty (40) hours during any one (1) week shall be permitted on the
44 Project upon compensation for all hours worked in excess of eight (8) hours
45 per day at not less than one and a half (1 1/2) times the basic rate of pay.
46
47

48 2.52 WAGE RATES
49

- 50 A. All projects under this Contract shall be subject to compliance monitoring and
51 enforcement by the Department of Industrial Relations (DIR), including the

1 obligation to submit certified payroll records directly to the DIR Compliance
2 Monitoring Unit (CMU) at least monthly using the CMU's eCPR system.
3 Detailed information may be obtained on the State of California's Department
4 of Industrial Relations website, www.dir.ca.gov/dlse/cmu/CMU.

5
6 The Contractor shall also submit certified payroll records of the Contractor,
7 Subcontractors and all Sub-subcontractors of any tier to the Project Manager
8 at least monthly.
9

10 B. Contractor shall, and shall cause each of its Subcontractors (as defined in
11 Labor Code section 1722.1) to provide written proof that they are currently
12 registered with the California Department of Industrial Relations at the time of
13 bid submittal, and have paid the applicable annual fee and are thereby qualified
14 to submit a bid and to perform public work pursuant to Labor Code section
15 1725.5, prior to award of this Contract or any subcontract hereunder. No bid
16 shall be accepted, nor shall this Contract or any subcontract hereunder, be
17 entered into without such proof.
18

19 C. Pursuant to Section 1770-1780 of the Labor Code of the State of California,
20 the Director of the Department of Industrial Relations has determined the
21 general prevailing rates of wages and rates for legal holidays and overtime in
22 the locality in which this work is to be performed, which under Labor Code
23 Section 1773.1 are deemed to include employer payments for health and
24 welfare, pension, vacation, travel time and subsistence pay, and
25 apprenticeship or other authorized training programs, for each craft or type of
26 worker or mechanic needed to perform this contract. Said wage rates are
27 available only at the Fresno County Department of Public Works and Planning,
28 Design Division, and will be made available to any interested person upon
29 request. Minimum wage rates for this Project, as predetermined by the
30 Secretary of Labor, are set forth in the Special Provisions. If there is a
31 difference between the minimum wage rates predetermined by the Secretary
32 of Labor and the Prevailing Wage Rates predetermined by the Director of the
33 Department of Industrial Relations of the State of California for similar
34 classifications of labor, the contractor and his subcontractors shall pay not less
35 than the higher wage rate.
36

37 D. It shall be mandatory upon the Contractor to whom the Contract is awarded,
38 and upon any Subcontractor under him/her to pay not less than the said
39 specified rates to all laborers, workers, and mechanics employed by them in
40 the execution of the Contract, and to pay all laborers, workers and mechanics
41 not less often than once weekly. The Contractor to whom the Contract is
42 awarded shall post a copy of the determination of prevailing wages at the job
43 site. The Contractor shall require all Subcontractors to comply with Sections
44 1770-1780 of the Labor Code of the State of California and shall insert into
45 every subcontract the requirements contained therein.
46

47 E. The Contractor shall comply with Labor Code Section 1775. In accordance
48 with said Section 1775, it is hereby further agreed that the Contractor shall
49 forfeit to the Owner, as a penalty, fifty dollars (\$50.00) for each laborer, worker,
50 or mechanic employed for each calendar day or portion thereof, who is paid
51 less than the said stipulated rates for any work done under the Contract, by

1 him/her or by any Subcontractor under him/her. The difference between said
2 stipulated rates and the amount paid to each worker for each calendar day or
3 portion thereof for which each worker was paid less than said stipulated rate
4 shall be paid to each worker by the Contractor. The Contractor, and each
5 Subcontractor, shall keep or cause to be kept an accurate record showing the
6 name, address, social security number, work classification, straight time and
7 overtime hours worked each day and week, and the actual per diem wages
8 paid to each journeyman, apprentice, worker or other employee employed by
9 him/her or her in connection with the public work. The records shall be open
10 at all reasonable hours to the inspection of the Owner, to its officers and
11 agents, and to the Division of Labor Law Enforcement of the State Department
12 of Industrial Relations, its deputies and agents, or as otherwise provided by
13 applicable law (including but not limited to Labor Code 1776).

14
15 F. In case it becomes necessary for the Contractor or any Subcontractor to
16 employ on the Work under this Contract any person in a trade or occupation
17 (except executive, supervisory, administrative, clerical or other non-manual
18 workers as such) for which no minimum wage rate is specified, the Contractor
19 shall immediately notify the Owner who shall promptly thereafter determine the
20 prevailing rate for such additional trade or occupation from the time of the initial
21 employment of the person affected and during the continuance of such
22 employment.

23
24
25 2.53 APPLICATION OF HIGHEST STANDARDS AND REQUIREMENTS

26
27 Whenever two (2) or more standards or requirements appear in these General
28 Conditions or in any other part of the Contract Documents that form the Contract, the
29 highest standard or requirement shall be applied and followed in the performance
30 under this Contract.

31
32
33 2.54 NONDISCRIMINATION IN EMPLOYMENT

34
35 Contractor shall comply with all Federal and State Laws prohibiting discrimination in
36 employment, including the following:

37
38 A. California Fair Labor Code Section 1735, which prohibits discrimination in
39 employment on any basis listed in subdivision (a) of Section 12940 of the
40 Government Code, as those bases are defined in Sections 12926 and 12926.1
41 of the Government Code, except as otherwise provided in Section 12940 of
42 the Government Code, and applies to all employers, employment agencies and
43 labor organizations.

44
45 B. Title VII of the Federal 1964 Civil Rights Act (42 U.S.C. Section
46 2000e - 2000e - 17) which prohibits employment discrimination on the basis
47 of race, color, sex, religion, or national origin, and applies to all employers that
48 employ at least fifteen (15) workers during each working day in each of twenty
49 (20) or more calendar weeks in the current or preceding year.

- 1 C. In addition to these two (2) laws of general application listed in the immediately
2 preceding paragraphs A and B, there are other Federal and State laws that
3 prohibit employment discrimination in particular cases.
4
- 5 D. The Owner is an Affirmative Action Employer and expects all of its contractors
6 and suppliers to familiarize themselves with, and comply with, all applicable
7 laws relating to employment discrimination.
8
- 9 E. To the extent required by law, the Contractor shall meet all requirements of law
10 relating to the participation of minority, women, and disabled veteran business
11 enterprise contracting goals, and shall comply with Public Contract Code
12 10115 et seq. and all applicable regulations. Contractor further agrees that,
13 when required, Contractor shall ensure compliance by all Subcontractors and
14 shall complete all forms required by all agencies exercising jurisdiction over
15 the project.
16

17
18 2.55 APPRENTICES
19

- 20 A. Pursuant to Sections 1770-1780 of the Labor Code of the State of California,
21 the Director of the Department of Industrial Relations has determined the
22 general prevailing rate of wages in the locality for each craft or type of worker
23 needed to execute the work. Said wage rates pursuant to Section 1773.2 of
24 the Labor Code are on file with the Clerk to the Fresno County Board of
25 Supervisors, and will be made available to any interested person on request.
26 A copy of this wage scale may also be obtained at the following Web Site:
27 *www.dir.ca.gov/dlsr*.
28
- 29 B. Pursuant to Section 1775 of the Labor Code of the State of California, nothing
30 in this Article shall prevent the employment of properly registered apprentices
31 upon public works. Every such apprentice shall be paid the standard wage paid
32 to apprentices under the regulations of the craft or trade at which he/she is
33 employed, and shall be employed only at the work of the craft or trade to which
34 he/she is registered.
35
- 36 C. Only apprentices, as defined in Section 3077, who are in training under
37 apprenticeship standards and written apprentice agreements under Chapter 4
38 (commencing at Section 3070), Division 3, of the Labor Code, are eligible to
39 be employed on public works. The employment and training of each apprentice
40 shall be in accordance with the provisions of the apprenticeship standards and
41 apprentice agreements under which he/she is training.
42
- 43 D. Fresno County is committed to increasing the availability of employment and
44 training opportunities, with particular attention to the plight of those who are
45 most economically disadvantaged. In an effort to advance that purpose, the
46 County will require that the Contractor and each subcontractor employed on
47 this Project shall use their best efforts to ensure that thirty-three percent (33%)
48 of apprentice hours, as determined by California Labor Code Section 1777.5
49 for each contractor and subcontractor of any tier on this Project, are performed
50 by qualified participants in state approved apprenticeship programs who also
51 are current or former "Welfare-to-Work" participants in the CalWORKs

- 1 1. Will receive a copy of the company's drug-free policy statement, and
- 2
- 3 2. Will agree to abide by the terms of the Contractor's statement as a
- 4 condition of employment on the contract.
- 5
- 6

7 2.58 BUILDING PERMIT AND OTHER PERMITS

8
9 The Building permit shall be obtained and paid for by the Owner. All other required
10 permits are the responsibility of the Contractor to obtain. Fees for all other required
11 permits shall be reimbursed to the Contractor at actual cost when the County is
12 presented with a valid receipt.
13

14
15 2.59 CODES AND REGULATIONS

16
17 All work, materials and equipment shall be in full compliance with the California
18 Building Code; California Plumbing Code; California Electrical Code; California
19 Mechanical Code; California Fire Code; California Energy Code; as those codes may
20 be amended from time to time; Cal/OSHA Safety Regulations; all Federal, State and
21 Local laws, ordinances, regulations and Fresno County Charter provisions in effect
22 and applicable in the performance of the work.
23

24
25 2.60 JOB ORDER CONTRACTING SOFTWARE AND LICENSE

26
27 A. Job Order Contracting Software:

28
29 The County of Fresno (County) selected The Gordian Group's (Gordian) Job
30 Order Contracting (JOC) system for the execution of the JOC program. The
31 Gordian JOC system includes Gordian's proprietary eGordian® and Gordian
32 Cloud JOC Applications and Construction Task Catalog®, which shall be used
33 by the Contractor to prepare and submit Job Order Proposals, subcontractor
34 lists, and other requirements specified in the general conditions and as may be
35 requested by the County. The Contractor shall be required to execute
36 Gordian's JOC System License and User Agreement, and shall pay a 1% JOC
37 System License Fee on all work awarded to the JOC contractor by the County
38 for access to the Gordian JOC System.
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