

**ARTICLE 5.**  
**COMPLIANCE WITH LAWS; REPRESENTATIONS; WARRANTY**

1.1 Compliance With Laws.

(a) The Contractor, in its performance of its obligations under this Contract, shall comply with all laws, ordinances, codes, rules, regulations, licensing, permitting or certification requirements that are applicable to the conduct of the Contractor's business and its performance under this Contract.

(b) The Contractor's obligation to comply with all laws shall include, but not be limited to, compliance with any and all Federal, State and Local laws, including, without limitation, statutes, rules, regulations, ordinances, administrative orders, judicial orders or consent decrees, requiring the reporting to any governmental, quasi-governmental or regulatory entity of any release, threatened release, presence or existence of a hazardous material or any similar substance or material into the environment. If the Contractor performs Work contrary to applicable laws, ordinances, codes, rules and regulations, the Contractor shall assume responsibility for such Work and shall bear the costs attributable to correction.

1.2 Federal Requirements. The Contractor shall comply with the following requirements in carrying out the Contract:

(a) Nondiscrimination. Applicable nondiscrimination requirements as set forth in Exhibit D, and including: Title VI of the Civil Rights Act of 1964 as amended; Title VIII of the Civil Rights Act of 1968 as amended; Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended; Section 504 of the Rehabilitation Act of 1973 (29 USC 794, et seq.); the Age Discrimination Act of 1975 (42 USC 6101, et seq.); Executive Order 11063 as amended by Executive Order 12259 and implementing regulations at 24 C.F.R. Part 107; Executive Order 11246 as amended by Executive Orders 11375, 12086, 11478, 12107; Executive Order 11625 as amended by Executive Order 12007; Executive Order 12432; Executive Order 12138 as amended by Executive Order 12608. Contractor shall include a copy of Exhibit D in all subcontracts.

(b) Equal Opportunity. Applicable equal opportunity requirements as set forth in Exhibit D, Exhibit E, Exhibit F, and Exhibit G. Contractor shall include the provisions set forth in Exhibit D, Exhibit E, Exhibit F, and Exhibit G in all subcontracts over \$10,000.

(c) **Section 3.** The requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u ("Section 3"), requiring that to the greatest extent feasible opportunities for training and employment be given to lower income residents of the area and agreements for work in connection with the Work be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the areas of the Property. The Contractor shall comply with the requirements, assurances, documentation, and certifications set forth in Exhibit H.

(d) **Labor Standards.** The Copeland "Anti-Kickback" Act (18 U.S.C. 874; implementing regulations at 29 CFR part 3) which requires that workers be paid at least once a week without any deductions or rebates except permissible deductions; and the Contract Work Hours and Safety Standards Act – CWHSSA (40 U.S.C. 3701-3708; implementing regulations at 29 CFR part 5) which requires that workers receive "overtime" compensation at a rate of 1-1/2 times their regular hourly wage after they have worked forty (40) hours in one (1) week.

(e) **Debarred, Suspended or Ineligible Contractors.** The prohibition on the use of debarred, suspended, or ineligible contractors set forth in Exhibit I. Contractor shall include the Certification attached as Exhibit I in all bid specifications. The Contractor shall and shall cause all subcontractors as applicable, to execute the Certification. The Contractor shall submit the signed Certifications to the Owner within seven (7) days of execution.

(f) **Lead-Based Paint.** The requirements of the Lead-Based Paint Poisoning Prevention Act, as amended (42 U.S.C. 4821 et seq.), and the Residential Lead-Based Paint Hazard Reduction Act (42 U.S.C. 4851 et seq.), and implementing regulations at 24 C.F.R. Part 35.

(g) **Drug Free Workplace.** The requirements of the Drug Free Workplace Act of 1988 (P.L. 100-690) and implementing regulations at 24 C.F.R. Part 24.

(h) **Anti-Lobbying; Disclosure Requirements.** The disclosure requirements and prohibitions of 31 U.S.C. 1352 and implementing regulations at 24 C.F.R. Part 87. The Contractor certifies, to the best of Contractor's knowledge or belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative

agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this Addendum was made or entered into. Submission of this certification is a prerequisite for making or entering into this Addendum imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than Ten Thousand Dollars (\$10,000) and no more than One Hundred Thousand Dollars (\$100,000) for such failure.

#### 1.3 Conflict of Interest.

(a) No person described in Subsection (b) below who exercises or has exercised any functions or responsibilities with respect to the Work or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during, or at any time after, such person's tenure. Contractor shall exercise due diligence to ensure that the prohibition in this Subsection (a) is followed.

(b) The conflict of interest provisions of Subsection (a) above apply to any person who is an employee, agent, consultant, officer, or any immediate family member of such person, or any elected or appointed official of the Owner.

#### 1.4 State Prevailing Wages.

(a) The Contractor shall and shall cause subcontractors to pay prevailing wages in the performance of the Work as those wages are determined pursuant to California Labor Code Sections 1720 et seq. and the implementing regulations of the Department of Industrial Relations and comply with the other applicable provisions of Labor Code Sections 1720 et seq. and implementing regulations of the Department of Industrial Relations. The Contractor shall and shall cause the subcontractors to keep and retain such records as are necessary to determine if such prevailing wages have been paid as required pursuant to

Labor Code Sections 1720 et seq. Copies of the currently applicable current per diem prevailing wages are available from the California Department of Industrial Relations website, [www.dir.ca.gov](http://www.dir.ca.gov). During the performance of the Work, Contractor shall post at the Property the applicable prevailing rates of per diem wages. Failure to comply with these requirements will subject the Contractor to penalties pursuant to Labor Code Section 1775.

(b) Contractor shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the Owner) the Owner, the County of Fresno, and the Kerman Redevelopment Agency against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including Contractor and subcontractors) to pay prevailing wages as determined pursuant to Labor Code Sections 1720 et seq. and implementing regulation or comply with the other applicable provisions of Labor Code Sections 1720 et seq. and implementing regulations of the Department of Industrial Relations in connection with the performance of the Work or any other work undertaken or in connection with the Property.

(c) Contractor and all subcontractors shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the Work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury in accordance with Labor Code Section 1776. Contractor shall provide such records to Owner on a weekly basis and such records shall be available for inspection by Owner. Owner shall have the right to conduct on-site employee interviews to ensure compliance with this Section 5.4.

(d) The Contractor and all subcontractors are subject to the provisions of Sections 1810-1814 of the California Labor Code which provide that the maximum hours a worker is to be employed is limited to eight hours a day and 40 hours a week and the contractor or subcontractor shall forfeit, as a penalty, \$25 for each worker employed in the execution of the contract for each calendar day during which a worker is required or permitted to labor more than eight hours in any calendar day or more than 40 hours in any calendar week and is not paid overtime.

(e) Section 1815 of the Labor Code requires that notwithstanding the provisions of Sections 1810-1814, employees of contractors who work in excess of eight hours per day and 40 hours per week shall be compensated for all hours worked in excess of eight hours per day at not less than 1-1/2 times the basic rate of pay.

1.5 **Warranty.** The Contractor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform to the requirements of the Contract. The Contractor's warranty in this Section does not in any way limit Contractor's other obligations relating to the Work and/or arising under law. In the event that any other warranties exceed the warranties set forth in this Section in scope or in time, the more extensive warranties shall control. The Contractor agrees to assign the Owner, at the time of final completion of the Work, any and all manufacturer's warranties relating to materials and labor used in the Work and further agrees to perform the Work in such manner so as to preserve any and all such manufacturer's warranties. Contractor acknowledges that such warranties shall be assigned by the Owner to the purchaser of the Property.

1.6 **Contractor Representations.** The Contractor represents and warrants the following to the Owner (in addition to any other representations and warranties contained in this Contract) as a material inducement to the Owner to execute this Contract, which representations and warranties shall survive the execution and delivery of this Contract and any termination of this Contract.

(a) The Contractor is financially solvent, able to pay all debts as they mature, and possessed of sufficient working capital to complete the Work and perform all obligations hereunder;

(b) The Contractor is able to furnish the plant, tools, materials, supplies, equipment, and labor itself or through its Subcontractors required to complete the Work and perform its obligations hereunder, and has sufficient experience and competence to do so;

(c) The Contractor is authorized to do business in the State of California and is properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over the Contractor and over the Work and the Property;

(d) The Contractor is a sophisticated contractor who possesses a level of experience and expertise in business administration, construction, construction management, and superintendence, commensurate with the size, complexity, and nature of this particular Work, and will perform the Work with the care, skill, and diligence of such a Contractor.

(e) All information delivered by the Contractor to the Owner is, to the best of the Contractor's knowledge, materially accurate and true; and

(f) The Contractor is not in material breach of any agreement, nor is there any claim pending against the Contractor that could materially

adversely affect the Contractor's ability to perform the Work.

1.7 **Records; Audits.**

(a) The Contractor shall keep and maintain, in accordance with generally accepted accounting principles consistently applied, full, complete and appropriate books, records and accounts relating to the performance of the Work, including all such books, records and accounts necessary or prudent to evidence and substantiate in full detail Contractor's compliance with the terms and provisions of this Contract. The Contractor shall be subject to the Audit and Retention provisions of RFP 962-4708 not repeated here. All such books, records, and accounts shall be open to and available for inspection, copying and auditing by the Owner, HUD, the Comptroller General of the United States, the State, the County, and their auditors or other authorized representatives at reasonable intervals during normal business hours. The Contractor shall preserve such records for a period of not less than five (5) years after final payment is received from the Owner. The Owner shall notify Contractor of any records it deems insufficient. Contractor shall have fifteen (15) calendar days after the receipt of such a notice to correct any deficiency in the records specified by the Owner in such notice, or if a period longer than fifteen (15) days is reasonably necessary to correct the deficiency, then Contractor shall begin to correct the deficiency within fifteen (15) days and correct the deficiency as soon as reasonably possible.

(b) The Owner, HUD, the Comptroller General of the United States, the County, the State, or any of their duly authorized representatives, shall have the right to perform any audit of Contractor's finances and records related to its performance under this Contract, including without limitation, the financial arrangement with anyone Contractor may delegate to discharge any part of its obligations under this Contract.