

COUNTY OF FRESNO

REQUEST FOR QUOTATION

NUMBER: 912-5334

**JOB ORDER CONTRACT**

**VOLUME TWO (2)**

February 27, 2015

ORG/Requisition: 8935/1321501094

PURCHASING USE  
ssj

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5334 JOB ORDER CONTRACT - VOL. 02.DOC

**IMPORTANT: SUBMIT QUOTATION IN SEALED PACKAGE WITH QUOTATION NUMBER, CLOSING DATE AND BUYER'S NAME MARKED CLEARLY ON THE OUTSIDE TO:**

COUNTY OF FRESNO, Purchasing  
4525 EAST HAMILTON AVENUE, 2<sup>nd</sup> Floor  
FRESNO, CA 93702-4599

CLOSING DATE OF BID WILL BE AT 2:00 P.M., ON MARCH 27, 2015

**QUOTATIONS WILL BE CONSIDERED LATE WHEN THE OFFICIAL PURCHASING TIME CLOCK READS 2:00 P.M.**

All quotation information will be available for review after contract award.

Clarifications of specifications are to be directed to: Louann M. Jones, e-mail [ljones@co.fresno.ca.us](mailto:ljones@co.fresno.ca.us), phone (559) 600-7118.

**DO NOT RETURN THIS VOLUME  
WITH VOLUME ONE (1)**



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NOTICE TO CONTRACTORS

Sealed bids will be received at the Fresno County Purchasing Division, 4525 East Hamilton, Second Floor, Purchasing Lobby, Fresno, CA. 93702 until

2:00 P.M., (1400 hours and 00 seconds)

March 27, 2015

Promptly following the closing of the bidding all timely submitted bids will be publicly opened and read at the Department in said building, for construction in accordance with the specifications therefore, to which special reference is made as follows:

**DESCRIPTION OF WORK:** This Notice Inviting Bids is for a Job Order Contract, a competitively bid, firm, fixed priced, indefinite quantity contract. The scope of work includes a collection of detailed repair and construction tasks and specifications that have pre-established Unit Prices listed in a Construction Task Catalog® (CTC) that was developed for the County of Fresno, and are for the direct cost of construction. The CTC is based on current prices in Fresno for experienced prevailing wage labor, high quality materials and equipment. The CTC pricing also incorporates local activity, climate and geographic factors. All work under this Contract will be performed for the County of Fresno at different locations throughout the County. The work will involve the repair, alteration, modernization, maintenance, rehabilitation, reconstruction, or construction of public buildings, streets, utilities, and other public works. Under this Contract, the Contractor furnishes all management, documentation and incidental drawings (as required), labor, materials and equipment needed to perform the work.

The County intends to award one contract to the Lowest Responsible Bidder for each contract listed. A separate bid package is required by each contractor wishing to bid each contract. If the lowest bidder for one package submits a bid package for another contract, that package will be opened, but considered not eligible unless remaining bid packages are deemed non-responsive, and all remaining bid packages will be opened. The Lowest Responsible Bidder will be awarded the next contract.

**PROCEDURE FOR ORDERING WORK:** If awarded, each Job Order Contract guarantees the Contractor the opportunity to perform a minimum value of total work worth \$25,000 up to a maximum potential value of total work worth \$2,000,000. The term of each Contract is 12 months or the expenditure of the \$2,000,000 maximum value of the Contract, whichever occurs first. The Maximum Contract Value may be increased by up to the sum authorized by Public Contract Code Section 20128.5 (currently approximately \$4,500,000). Any increase in the Maximum Contract Value will be by bi-lateral agreement. After contract award, as the need for specific work arises, the County will issue the Contractor a Job Order specific Request for Proposal. The Contractor shall then submit a Job Order Proposal for a Detailed Scope of Work to the County. Upon receipt of the Contractor's Job Order Proposal, the County will evaluate the Job Order Proposal against the Contract and the County's estimate of costs for the Detailed Scope of Work. If the Contractor's Job Order Proposal is deemed acceptable, the Project Manager may issue a Job Order at the agreed upon Job Order Price. The Job Order Price is calculated by selecting applicable pre-priced construction tasks from the CTC Construction Task Catalog® and multiplying the Unit Prices for those tasks by the appropriate quantities and Adjustment Factors. The sum of all selected pre-priced tasks will establish a lump sum firm fixed price for the Job Order. The Job Order Contract also includes a provision for work tasks not included in the Construction Task Catalog® at the time of the Contract award. These tasks are referred to as "Non-Prepriced Tasks". Non-Prepriced (NPP) Tasks may require the establishment of specifications and drawings and may subsequently be incorporated into the Construction Task Catalog®.

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

Inquiries regarding this contract should be directed to Louann Jones, Purchasing Division, (559) 600-7118. Oral explanations or interpretations of Bid Documents are not binding. Any explanation, interpretation or clarification of Bid Documents will be in the form of a written addendum to the Bid Documents issued to the holders of record of such documents.



Bids shall be submitted in a sealed opaque envelope addressed to the Division and labeled with the name of the bidder, the name of the project, **the solicitation number**, and the statement **"Do Not Open Until The Time Of Bid Opening."** The determination for award shall be based upon the two (2) lowest responsive, responsible bidders.

**PRE-BID CONFERENCE: Prospective bidders must attend the mandatory pre-bid conference. Due to the relative complexity of this type of procurement, a detailed orientation on the Job Order Contracting System will be provided as well as a discussion on JOC from the Contractor's viewpoint at the pre-bid conference. The pre-bid conference will be held at March 11, 2015 at 10:00 a.m. The conference will be held in the Elections Training Room at 4525 E. Hamilton Avenue, Fresno, Ca. 93702.**

Bidding Documents applying to this contract may be obtained at the Pre-Bid Conference. There is no charge for the Documents. The Bid Documents will consist of two written volumes and a compact disk. The first volume contains the actual bid forms that must be completed and returned. Volume Two will consist of the Notice Inviting Bid, Instructions to Bidders, General Conditions, Supplemental General Conditions, Hostage Policy and a sample agreement. The compact disk contains the Construction Task Catalog® and the Technical Specifications. The compact disk is in Adobe Acrobat format and contains that program if the bidder requires it. Bid security in the amount of twenty five thousand dollars (\$25,000), and in the form of a bid bond issued by an admitted surety insurer licensed by the California Department of

Insurance, cash, cashier's check or certified check shall accompany the bid. Bid security shall be made in favor of the County of Fresno.

No contract will be awarded to a contractor who has not been licensed in accordance with the provisions of the Contractors State License Law, California Business and Professions Code, Division 5, Chapter 9, as amended, or whose bid is not on the Bid Form included in the solicitation. **A valid California Contractor's License, Class "B", is required for this project.**

Some of the Work to be done under this Job Order Contract may be done utilizing federal funds. If federal funds are to be used the following terms will be enforced: "The County of Fresno hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, Disadvantaged Business Enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, religious creed, sex, or national origin in consideration for an award."

Some of the Work to be done under this Job Order Contract may be done utilizing Community Development Block Grant (CDBG) funds. If (CDBG) funds are to be used the following terms will be enforced: "The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development, Community Development Block Grant Program, and subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 1701U."

"Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low and moderate income persons residing within the project area and the contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by persons residing in the area of the project. Regulations for implementing the Section 3 clause are contained in 24 CFR 135, as amended and as specified in the project specifications."

The County has, when it determines the necessity, established the following goal for Disadvantaged Business Enterprise (DBE) participation for projects using federal funds:

Disadvantaged Business Enterprise (DBE): 14.9 percent. This goal applies to only Federally Funded projects.

In accordance with the provisions of Section 1770 of the Labor Code, the Director of the Department of Industrial Relations of the State of California has determined the general prevailing rates of wages and employer payments for health and welfare, pension, vacation, travel time, and subsistence pay as provided for in Section 1773.8, apprenticeship or other training programs authorized by Section 3093, and similar purposes applicable to the work to be done. Said wage determinations are on file with the Clerk of the Board of Supervisors and are incorporated herein by reference. Said wages are available only at the Department of Public Works, Design Division, Design Services Section.



For Federally funded projects, the minimum wage rates, as predetermined by the Federal Secretary of Labor, are available at request. If there is a difference between the minimum wage rates predetermined by the Federal Secretary of Labor and the Prevailing Wage Rates predetermined by the Director of the Department of Industrial Relations of the State of California for similar classifications of labor, the contractor and his subcontractors shall pay not less than the higher wage rate.

The County hereby specifies that portions of the work may only be performed outside the regular working hours as defined in the applicable collective bargaining agreement filed with the Director of Industrial Relations in accordance with Labor Code Section 1773.1, and that the overtime requirements for Saturdays, and holidays are hereby waived for these portions of the work, as more particularly described in the Bid Documents. However, this exemption shall not negate the overtime provisions specified in Labor Code Section 1815.

**BID PRICE SUBMITTAL:** Each bidder must submit four price Adjustment Factors, which shall apply to all the work tasks listed in the CTC. The first Adjustment Factor will be applied to that work during Normal Working Hours for non-federally funded projects. The second Adjustment Factor will be applied to that work Other than Normal Working Hours for non-federally funded projects. The third Adjustment Factor will be applied to that work during Normal Working Hours for federally funded projects. The fourth Adjustment Factor will be applied to that work Other than Normal Working Hours for federally funded projects. The Adjustment Factors must be specified to the fourth decimal place and shall be "net", (e.g., 1.0000) or an adjustment "decrease from" (e.g., .9500) or "increase to" (e.g., 1.2000) the Unit Prices listed in the CTC. Bidders who submit separate Adjustment Factors for separate Unit Prices will be considered non-responsive and their bid will be rejected.

The bids will be evaluated by adding 65% of the first Adjustment Factor to 20% of the second Adjustment Factor added to 10% of the third Adjustment Factor added to 5% of the fourth Adjustment Factor. The amount of work to be done in Other than Normal Working Hours may vary considerably.

**SUBCONTRACT LIMITATIONS:** In accordance with California Public Contract Code section 4104, the Contractor shall list in each Job Order Proposal, on forms provided by the Owner, the name, business location, and value of work of each subcontractor who will perform work or labor or render service, or any subcontractor licensed by the State of California who, under subcontract to the contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one half of 1 percent of the proposed price for each Job Order.

**BIDDER'S GUARANTEE:** The bidders shall guarantee the bids for a period of 60 calendar days from the date of the bid opening. The Owner reserves the right to waive minor irregularities and to reject any and all bids.

The successful bidder shall furnish a faithful performance bond in the amount of 100 percent of the Maximum Contract Value and a payment bond in the amount of 100 percent of the Maximum Contract Value. Each bond specified in this Notice (bid bond, faithful performance bond and payment bond) shall meet the requirements of all applicable statutes, including but not limited to those specified in Public Contract Code section 20129 and Civil Code section 3248.

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

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



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## INSTRUCTIONS TO BIDDERS

### 1.01 EXPLANATION TO BIDDERS

An explanation desired by bidders regarding the meaning or interpretation of the Bid Documents must be requested in writing and within 10 days prior to bid opening to allow sufficient time for a reply to reach them before the submission of their bids.

Oral explanations given before the award of the contract will not be binding. Any interpretation made will be in the form of an addendum to the Bid Documents, said addendum will only be issued by Purchasing. A copy of the addendum will be furnished to each plan holder and its receipt shall be acknowledged on the Bid form.

### 1.02 EXAMINATION OF BID DOCUMENTS, SPECIAL PROVISIONS AND SITE OF WORK

The bidder is required to examine carefully the proposal, Bid Documents, Construction Task Catalog®, Technical Specifications, special provisions and contract forms for submitting a Bid. It is mutually agreed that the submission of a Bid shall be considered prima facie evidence that the bidder has made such examination and is satisfied with the conditions to be encountered in performing the work and as to the requirements of the Bid Documents.

### 1.03 BID GUARANTEE

The bidder shall furnish a proposal guarantee consisting of a bid bond, cash, certified check, or cashier's check for twenty five thousand dollars (\$25,000).

In case security is in the form of a certified check or cashier's check, the Owner may make such disposition of same as will accomplish the purpose of which submitted. Checks deposited by unsuccessful bidders will be returned as soon as practicable after the bid opening.

### 1.04 PREPARATION OF BIDS

The bidder shall prepare his Bid on the blank Bid form furnished by the County. The bidder shall specify four Adjustment Factors to the Unit Prices in the Construction Task Catalog® in both words and figures.

All words and figures shall be in ink. In case of a discrepancy between the Adjustment Factors written in words and those written in figures, the written words shall govern.

Alternate or conditional bids will not be accepted.

The bids shall be signed in ink by the individual, by two or more partners of the partnership, or by two or more of the officers of the corporation submitting it. If the bid is made by an individual, his name and post office address must be shown. If made by a partnership, the name of each member of the partnership must be shown. If made by a corporation, the bid must show the name of the state under which the corporation was chartered and the name of the president, vice president, secretary and treasurer.

The required bid guaranty must accompany the bid.

### 1.05 SUBCONTRACTORS

The Contractor is not to name Subcontractors at time of bid. In accordance with California Public Contract Code section 4104, the Contractor shall list in each Job Order Proposal, on forms provided by the Owner, the name, business location, and value of work of each subcontractor who will perform work or labor or render service, or any subcontractor licensed by the State of California who, under subcontract to the contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the Contract Documents, in an amount in excess of one half of 1 percent of the proposed price for each Job Order.

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.

The attention of bidders is also directed to Section 1-1.16, Post-Bid/Pre-Award Information, of these Instructions to Bidders.

### 1.06 SUBMISSION OF BID

Each bid shall be submitted in a sealed envelope labeled to clearly indicate the project and contents.



When sent by mail, a sealed Bid must be addressed to the Fresno County Purchasing Division, 4525 East Hamilton Avenue, Fresno, CA 93702. All Bids shall be filed prior to the time and at the place specified in the NOTICE TO CONTRACTORS. Bids received after the time for opening of the bids will be returned to the bidder unopened.

#### 1.07 IRREGULAR BIDS

Bids shall be considered irregular and may be rejected for the following reasons:

- a. If the Bid forms furnished by the Owner are not used or are altered.
- b. If there are unauthorized additions, conditional or alternate Bids or irregularities of any kind which tend to make the Bid incomplete or indefinite.
- c. If the bidder adds any provision reserving the right to accept or reject an award, or to enter into a contract pursuant to an award.
- d. If the bid fails to contain an Adjustment Factor for each item.

#### 1.08 DISQUALIFICATION OF BIDDERS

Any one or more of the following causes may be considered as sufficient for disqualification of a bidder and rejection of his bid or bids:

- a. More than one bid for the same work from an individual, partnership or corporation.
- b. Evidence of collusion among bidders. Participants in such collusion will receive no recognition as bidders for any future work of the Owner until such participant shall have been reinstated as a qualified bidder.
- c. Lack of competency and adequate machinery, plant or other equipment, as may be revealed by Pre-Award Survey.
- d. For unsatisfactory performance record as shown by past work for the Owner, judged from the standpoint of workmanship and progress.
- e. Prior commitments or obligations which in the judgment of the Owner might hinder or prevent the prompt completion of the work.
- f. Failure to pay, or satisfactorily settle, all bills due for labor or materials on former contracts in force at the time of letting the bid.
- g. Failure to comply with any qualification regulation of the Owner.
- h. Omission of bid guaranty.

#### 1.09 WITHDRAWAL OR REVISION OF BIDS

A bidder may, without prejudice to himself, withdraw a bid after it has been deposited, provided the request for such withdrawal is received in writing or by telegram before the time set for opening bids. The bidder may then submit a revised bid provided it is received prior to the time set for opening bids.

#### 1.10 PUBLIC OPENING OF BIDS

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

#### 1.11 RELIEF OF BIDDER

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

#### 1.12 AWARD OF CONTRACT(S)

The County intends to award one contract to the Lowest Responsible Bidder for each contract listed. A separate bid package is required by each contractor wishing to bid each contract. If the lowest bidder submits a bid package for another contract, that package will be opened, but considered not eligible unless remaining bid packages are deemed non-responsive, and all remaining bid packages will be opened. The Lowest Responsible Bidder will be awarded the next contract.



If the Owner finds that it will be unable to award the contract(s) within 60 calendar days after the opening of bids, the Director may request any or all bidders to extend all terms of their bid(s) to a specified date. Additional such extensions may possibly be requested. If a bidder does not elect to extend the terms of his or her bid beyond the 60 calendar days following opening of bids, or does not respond within 10 days to a request for an extension, that bidder's bid will be deemed as having expired 60 calendar days following opening of the bids, and that bidder's bid will not be considered for award of the contract.

The successful bidders will be notified by letter, mailed to the address shown on his bid, that his bid has been accepted and that he has been awarded the contract.

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

#### 1.13 CANCELLATION OF AWARD

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

#### 1.14 CONTRACT BONDS

The bidder to whom award is made shall enter into an agreement based on their proposal submitted in response to this RFP. The bidder shall sign such agreement within seven (7) calendar days of County requesting such signature. The agreement will be submitted to the Fresno County Board of Supervisors following signature by the awarded bidder. Failure of the awarded bidder to accept and sign the Agreement within seven (7) calendar days of request shall result in the bidder's forfeiture of the twenty-five thousand dollar (\$25,000.00) bid guarantee that is required under this RFQ.

The successful bidders shall furnish a faithful performance bond in the amount of 100 percent of the Maximum Contract Amount and a payment bond in the amount of 100 percent of the Maximum Contract Amount. Each bond specified in this Notice (bid bond, faithful performance bond and payment bond) shall meet the requirements of all applicable statutes, including but not limited to those specified in Public Contract Code section 20129 and Civil Code section 3248; said bonds shall be submitted in triplicate.

The payment bond shall contain provisions such that if the Contractor or his subcontractors shall fail to pay (a) amounts due under the Unemployment Insurance Code with respect to work performed under the contract, or (b) any amounts required to be deducted, withheld and paid over to the Employment Development Department from the wages of the employees of the Contractor and subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor, then the surety will pay these amounts. In case suit is brought upon the payment bond, the surety will pay a reasonable attorney's fee to be fixed by the court.

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

#### 1.15 POST-BID / PRE-AWARD INFORMATION

The apparent low bids will be determined on the basis of the weighted average of the total number of Adjustment Factors submitted. The apparent low bidders will be notified by mail after bid opening day. Upon receipt of notification, the apparent low bidders must complete the Pre-Award forms found in these Bidding Documents. The Bidders shall complete and return these forms to the Owner within 5 days of receiving notification.

The County may request that bidders other than the apparent low bidders submit similar information, for the purpose of evaluating bids.

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





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**2.01 IDENTIFICATION OF CONTRACT**

The Contract Documents shall be signed by the Contractor and Owner, but, in case they (other than Agreement) are found to lack such signature, identification by the Director is deemed sufficient and conclusive.

**2.02 CORRELATION OF CONTRACT DOCUMENTS**

The Contract Documents are complementary and anything called for by one shall be supplied as if called for by all, providing it comes clearly within the scope of the Contract.

**2.03 DEFINITIONS**

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

- a. Owner - The County of Fresno, State of California, as represented by the Fresno County Board of Supervisors and so named in the Agreement.
- b. Director - The Director of Department of Internal Services, County of Fresno, acting either directly or through properly authorized agents, such agents acting within the scope of the particular duties entrusted to them, which ever department issues the Notice to Proceed to the Contractor.
- c. Architect or Engineer - The Director of Department of Internal Services or the Director of Department of Public Works and his/her authorized agents as defined in Section 2.03(b), or a duly licensed Architect or Engineer providing consultant services in accordance with an agreement with the Owner.
- d. Contractor - When used in the General Conditions refer to: Person, persons, entity, co-partnership; or corporation so named in Agreement; when used in the body of the Contract Documents, refers to the Contractor for that specific work, whether it be the General Contractor, Sub-Contractor, or other Contractor.
- e. Sub-Contractor - Person, persons, entity, co-partnership or corporation having direct contract with Contractor.
- f. Adjustment Factor - is the Contractor's competitively bid price adjustment to the Unit Prices published in the Construction Task Catalog®.
- g. Bid Documents - Notice Inviting Bids; the Instructions to Bidders; General Conditions, Supplemental General Conditions, the Construction Task Catalog®, the Technical Specifications (CTC and Technical Specifications on compact disk); any specifications incorporated by reference; and any Addenda issued by the County.
- h. Construction Task Catalog® (CTC) - is a comprehensive listing of specific construction related tasks identified by the Owner together with a specified unit of measurement and Unit Price.
- i. Contract Documents - Bid Documents and any amendments, modifications, or revisions to the Bid Documents; all Job Orders issued under the Contract; all amendments, modifications, or revisions to the Contract; the Contractor's bid; surety bonds; certificates of insurance; County notification to the Contractor that Work is needed; County Requests for Proposals; and any design drawings provided by the County with the Job Orders.
- j. Final Completion of the Job Order - the last date on which all of the following events have occurred: the County has determined that all Punch List Work and any other remaining Work have been completed in accordance with the Contract Documents; final inspections have been completed and all operations systems and equipment testing have been completed; the issuance of final occupancy certifications (if any); all deliverables have been provided to the County and all contractual requirements for final payment have been completed.
- k. Job Order Contract (JOC) - also referenced herein as "the Contract"; a competitively bid, firm fixed-price, indefinite-quantity contract for accomplishing construction and construction-related services. Work is accomplished through the issuance of individual Job Orders. Each Job Order issued under the Contract will be a firm fixed priced for accomplishing a specific construction task or Project.
- l. Key Personnel - those job titles and the persons assigned to the following positions or their equivalents: Senior Project Manager, Project Manager, Estimator, Scheduler and Superintendent.
- m. Maximum Contract Value - the maximum potential value of the Contract as defined in the Notice Inviting Bids.
- n. Minimum Contract Value - the minimum value of the Contract as defined in the Notice Inviting Bids. The Owner has no obligation to give the Contractor the opportunity to perform Job Orders beyond the Minimum Contract Value.



- o. Non-Prepriced (NPP) Tasks - the units of Work that are not included in the Construction Task Catalog® but are required by the Detailed Scope of Work.
  - p. Normal Working Hours - between the hours of 7:00 AM to 5:00 PM, Monday through Friday, inclusive. Saturdays, Sundays, and County holidays are excluded.
  - q. Notice of Completion - a form issued by the County indicating that the Work is complete and fixing the date of completion. The form is signed by the County and filed with the County Recorder. The County, at its sole discretion, may elect not to issue a Notice of Completion on any individual Job Order.
  - r. Notice to Proceed - written authorization from the County for the Contractor to commence a Job Order.
  - s. Other than Normal Working Hours - Work done between the hours of 5:00 PM to 7:00 AM, on week days and any times during Saturday, Sunday, and County holidays.
  - t. Plans - the drawings, sketches, illustrations, specifications or other pertinent information included on or attached to the Job Order.
  - u. Prepriced Task - An item of work included in the Construction Task Catalog® for which a unit price is given.
  - v. Project - collectively, the improvements to be constructed by the Contractor pursuant to one or more Job Orders.
  - w. Job Order Price Proposal - A price proposal prepared by the Contractor that includes the Prepriced Tasks, Nonprepriced Tasks, quantities, and appropriate Adjustment Factors required to complete the Detailed Scope of Work.
  - x. Proposal - the Contractor's irrevocable offer to perform Work associated with a Job Order and refers to the Contractor prepared document quoting a firm fixed-Job Order Price and schedule for the completion of a specific Detailed Scope of Work. The Contractor's Job Order Proposal must be on forms provided by the County and in an electronic version compatible with the County's systems. The Job Order Proposal may also contain approved drawings, work schedule, permits, or other such documentation as the County might require for a specific Job Order.
  - y. Job Order Price - The value of the approved Job order Price Proposal and the amount a Contractor will be paid for completing a Job Order.
  - z. Job Order Completion Time - The time within which the Contractor must complete the Detailed Scope of Work.
  - aa. Joint Scope Meeting - A site meeting to discuss the work before the Detailed Scope of Work is finalized.
  - bb. Punch List Work - a compilation of minor items that have not been completed in accordance with an individual Job Order and the Contract Documents. Whether an item is Punch List Work or necessary for completion shall be determined in the sole discretion of the County.
  - cc. Request for Proposal (RFP) - the County's written request to the Contractor for a Proposal for the Detailed Scope of Work referenced in a specific Job Order.
  - dd. Detailed Scope of Work - shall mean the complete description of services to be provided by the Contractor under an individual Job Order.
  - ee. Job Order - the documents that indicate the Work to be accomplished under this Contract. The County will be responsible for the development of the Job Order as well as the inspection and acceptance of the Work contained within the Job Order. The County will review the Contractor's Proposal and if acceptable, shall issue a Job Order for the Work described therein. Each Job Order shall include a Detailed Scope of Work, a lump sum, firm fixed Job Order Price Proposal from the Contractor based upon the Construction Task Catalog® or NPP Task formula in Paragraph 3.04 of the Supplemental General Conditions, whichever is applicable, time for completion of the Work, and any special conditions that might apply to that specific Job Order, such as Liquidated Damages. The County also reserves the right to issue a Job Order to the contractor for a Job Order Price Proposal that is generated by the County that in the opinion of the Owner, best represents the Detailed Scope of Work (DSDW) for such project.
  - ff. Unit Price - refers to the price published in the Construction Task Catalog® for a specific construction or construction-related task. The Unit Prices are fixed for the duration of the Contract. Each Unit Price is comprised of the labor, equipment and materials costs to accomplish that specific task.
  - gg. Work - the Contractor's furnishing of all labor, materials, equipment and other incidentals necessary or convenient to the completion of an individual Job Order.
  - hh. Technical Specifications: the written requirements for materials, equipment, systems, standards and workmanship for the work, and performance of related services.
- 2.04 CONTRACT DOCUMENTS, SPECIFICATIONS AND DRAWINGS
- a. In resolving conflicts resulting from errors or discrepancies in any of the Contract Documents, the order of precedence shall be as



follows:

- 1 Permits from other agencies as may be required by law.
  - 2 Permits issued by the Owner.
  - 3 Changes to Job Orders
  - 4 Job Orders
  - 5 Agreement
  - 6 Contractor's Bid (Bid Form)
  - 7 Addenda
  - 8 General Conditions
  - 9 Technical Specifications (Divisions 2 through 19)
  - 10 Construction Task Catalog®
  - 11 Reference Specifications
  - 12 Instruction to Bidders
  - 13 Notice Inviting Bids
- b. Division of Contract Documents - For convenience of reference and to facilitate the letting of independent contracts, the Contract Documents may be separated into certain sections; such separation shall not operate to oblige the Director only or designee to establish the limits of any contract between the Contractor and Sub- Contractor each of whom shall depend upon his/her own contract stipulations. The General Conditions apply with equal force to all work, including extra work.
- c. Discrepancies - Should the Contractor, at any time, discover a mistake in any of the Contract Documents or any discrepancy therein, or any variation between dimensions on the Contract Documents and measurements at site, or any lacking of dimensions or other information, he shall report at once to the Director for correction and shall not proceed with the work affected thereby until such correction has been made.
- d. Shop Drawings - Mill drawings, shop drawings, setting diagrams, schedules, maker's specifications and illustrations requisite for the various parts of the work shall be provided and promptly submitted by the Contractor. These shall be submitted in duplicate or as directed, shall be corrected if necessary and resubmitted until review by the Director is complete, after which corrected copies of each shall be filed with him and the necessary additional copies supplied for use in connection with the work. Corrections or comments made on the shop drawings during this review do not relieve the contractor of his/her responsibility to comply with the requirements of the drawings and specifications. This review is only to check for general conformance with the design concept of the project and general compliance with the Contract Documents. The Contractor remains responsible for: confirming and correlating all dimensions and quantities; selecting fabrication processes and techniques of construction; coordinating the work of the trades; and performing the work in a safe and satisfactory manner
- e. Trade Names and Alternatives - The intent of the specifications is to specify high-grade standard equipment, and it is not the intent of these specifications to exclude or omit the products of any responsible manufacturer, if such products are equal in every respect to those mentioned herein. Wherever an article, or any class of materials, is specified by the trade name or by the name of any particular patentee, manufacturer or dealer, it shall be taken as intending to mean and specify the article of material described or any other equal thereto in quality, finish and durability, and equally as serviceable for the purpose for which it is or they are intended.
- f. Materials - All materials, unless otherwise specified, shall be new and of good quality, proof of which shall be furnished by the Contractor; in case of doubt as to kind or quality required, samples shall be submitted to the Director who will specify the kind and use of the material appropriate to the location and the function of the item in question and Contractor shall furnish such accordingly.

## 2.05 CONTRACTOR RESPONSIBILITIES

- a. Supervision Procedures
1. The Contractor shall give efficient supervision to the work, using therein the skill and diligence for which he is remunerated in the contract Adjustment Factors. He shall carefully inspect the site and study and compare all contract Documents and other instructions, as ignorance of any phase of any of the features or conditions affecting the Contract will not excuse him from carrying out its provisions to its full intent.
  2. The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the project site



during the progress of the work. The superintendent shall represent the Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor. The Contractor shall identify in writing the name and experience of the Superintendent for Owner review. A Contractor superintendent shall not manage more than four (4) projects that are in construction at any one time.

3. The Contractor shall be responsible to the Owner for the acts and omissions of his/her employees, subcontractors and their agents and employees, and other persons performing any of the work under a contract with the Contractor.
4. The Contractor shall at all times enforce strict discipline and good order among his/her employees and shall not employ on the work any unfit person or anyone not skilled in the task assigned to him.
5. The Contractor shall not be relieved from his/her obligations to perform the work in accordance with the Contract Documents either by the activities or duties of the Director in his/her administration of the Contract, or by inspections, tests or approvals required or performed by persons other than the Contractor.

b. Construction Procedures

1. Means and Methods - The Contractor shall be solely responsible for and control of construction means, methods, techniques, sequences and procedures for all the work of this contract. Additionally, he shall be responsible for safety precautions and programs in connection with the work. The Contractor shall be accountable for all acts of omission of his/her employees, subcontractors, or any of their agents and employees or any other persons performing any of the work of this Contract.
2. Progress Schedule - The Contractor, immediately after being awarded a Job Order, shall update the schedule submitted as part of the Proposal and submit for the Owner's information an estimated progress schedule.
3. Laws of City, County and State - The Contractor must comply with all rules, regulations and ordinances of the County in which the work is being done, and all Local, State, and Federal laws pertaining to the work.
4. Safeguards - The Contractor shall provide, in conformity with all local codes and ordinances and as may be required, such temporary walls, fences, guard-rails, barricades, lights, danger signs, enclosures, etc., and shall maintain such safeguards until all work is completed.
5. When the Owner furnishes equipment or materials to the Contractor for use or inclusion in the Work, the Contractor's responsibility for all such equipment and materials shall be the same as for materials furnished by the Contractor.
6. Housekeeping - Contractor shall keep the premises free of excess accumulated debris. Clean up as required and as directed by the Engineer. At completion of work all debris shall be removed from the site.
7. Contractor's Right to Stop Work or Terminate Contract - If through no fault of the Contractor or of anyone employed by him (1) the work is stopped by order of any court or governmental authority, or (2) the Owner fails to issue any certificate for payment within Forty-five days after it is due or (3) the Owner fails to pay the Contractor within Forty-five days after its presentation, any sum certified by the Owner or awarded by arbitrators, then the Contractor may, upon ten days' written notice to the owner, stop work or terminate the contract, and the Owner shall be liable to the Contractor for any loss sustained and reasonable profit.

2.06 SUB-CONTRACTORS

- a. Agreements - Agreements between the Contractor, Sub-Contractors, and Sub-Contractors 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. Subcontractors may be added, deleted or substituted only in accordance with the provisions of Public Contract Code Section 4100 et seq.
- b. Relation with Sub-Contractor - The Contractor shall bind every Sub-Contractor and every Sub-Contractor 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 Sub-Contractor promptly upon issuance of Certificate of Payment, his/her or their due portion.
- c. Owner's Relation - Neither the acceptance of the name of Sub-Contractor nor the suggestion of such name nor any other act of the Owner nor anything contained in any Contract Document is to be construed as creating any contractual relation between the Owner and any Sub-Contractor of any tier.



- d. A Contractor that conducts or participates in bid shopping or bid peddling after the award of this contract shall not receive any additional Job Orders under this contract, and such conduct shall be grounds for immediate termination of this Contract.
- e. The Owner reserves the right to reject any proposed subcontractor, installer, or supplier who cannot show satisfactory evidence of meeting the qualifications required by the Contract Documents. In the event of such rejection, the Contractor shall, within the time frame listed for submittal of revised Proposals, submit the name and qualifications of a replacement subcontractor, installer or supplier satisfactory to the Owner. Such replacement submittal shall be in accordance with all Contract Documents.
- f. No adjustment of Job Order Price shall be made in the event of such replacement.
- g. When an individual Job Order utilized Federal Funds and the County elects to require DBE participation, the Contractor shall follow the Federal Good Faith Effort requirements for inclusion of DBE subcontractors and suppliers. (All Job Orders that have federal funding shall follow the reporting requirements listed in the Grantees' funding documentation as directed by the County Project Manager.

#### 2.07 PREROGATIVE OF OWNER

The Owner may perform or employ others to undertake portions of work persistently neglected by the Contractor, provided that, after three days' written notice to the Contractor, work is still undone. In such case, the work shall be done under direction of the Director or designated County Official or designee and the cost deducted from the amount of next payment falling due to the Contractor. Such action shall, in no way, affect the status of either party under contract, nor be held as a basis of any claim by the Contractor for damages or extension of time.

#### 2.08 CONTROL OF THE WORK

The Director after contract is signed, is assumed to be just and unbiased Arbiter between parties thereto and the entire work is under his/her jurisdiction to such end. It is his/her function to interpret the Contract Documents; pass upon merits of materials and workmanship, compute amounts of and issue certificates for all payments to which Contractor may be entitled; decide upon all deductions from and additions to the Job Order Price resulting from alterations after letting of Job Order; determine amount of damages accruing to either Party from any cause; or conferences at any time during the progress of the work and such order shall require the Contractor and any or all Sub-Contractors or other Contractors to attend; and perform any other duties hereinafter stated within his/her province.

It shall be the responsibility of the Director or designee to make written decisions in regard to all claims of the Owner or Contractor and to interpret the Contract Documents on all questions arising in connection with the execution of the Work.

Orders from the Director shall be in writing only, properly signed; no oral orders from Director nor from anyone acting for him shall be considered binding in case of dispute and no one, other than the Owner, or the Director acting for him, has authority to order changes involving extras or deductions. Superintendents or Inspectors may be assigned by the Owner and/or Engineer to assist them in the conduct of the work and these persons shall be entitled to the same free access to all parts of work, and the degree of authority of such employees to act for the Engineer is as prescribed for the Engineer, such employees acting within the scope of the particular duties entrusted to them.

Authority to stop the work is vested in the Director and may be involved whenever he deems such action necessary to insure proper execution of the Contract and Work may not thereafter be resumed until the Director has given written consent.

#### 2.09 INSPECTION

All material and workmanship (if not otherwise designated by the Contract Documents) shall be subject to inspection, examination, and test by the Director or designated County Official at any and all times during manufacture and/or construction and at any and all places where such manufacture and/or construction are carried on. The Director shall have the right to reject defective material and workmanship or require its correction.

The Contractor shall furnish promptly without additional charge, all reasonable facilities, labor, and materials necessary for the safe and convenient inspection and tests that may be required by the Director.

Should it be considered necessary or advisable by the Director at any time either before acceptance of the entire work or after acceptance and within the guaranty period to make an examination of work already completed, by removing or tearing out same, the Contractor shall on request promptly furnish all necessary facilities, labor, and material. If such work is found to be defective in any material respect, due to the fault of the Contractor or his/her Sub-Contractors, he shall defray all the expenses of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the contract, cost necessarily involved in the examination and replacement, as determined by use of the Construction Task Catalog®, shall be allowed the Contractor and he shall, in addition, if completion of the work has been delayed thereby, be granted a suitable extension of time on account of the additional work involved.



When the work is completed the Contractor shall notify the Owner in writing that the work will be ready for final inspection and test on a definite date which shall be stated in such notice.

## 2.10 TAXES, PERMITS, FEES, AND INDEMNIFICATION FOR PATENT INFRINGEMENT CLAIM

The Contractor shall pay for and include all Federal, State and local taxes direct or indirect upon all materials, and take out and pay all fees and charges for permits and licenses, unless otherwise specified in Supplemental General Conditions or Technical Specifications of these specifications.

Royalty and license fees incidental to the use of any patented material, device or process shall be paid by the Contractor and in the event of a claim of alleged infringement of patent copyright, or Trade Secret rights, the Contractor shall indemnify, save the Owner free and harmless, and defend, at the Contractor's own expense, any and all suits that may be brought in such connection.

## 2.11 PAYMENT

Payments shall be made on inspected and approved Work only. If an individual Job Order requires 45 days or less for completion, the Owner will normally make one payment to the Contractor after the Notice of Completion, if required by the County, and retainage shall be paid after final acceptance of all Work contained under the Job Order and all Contract requirements for final payment have been satisfied. For Job Orders requiring greater than 45 days performance period, the Owner will consider a request for partial payments to the Contractor, not more than monthly.

The Owner will make progress payments to the Contractor upon completion of portions of the work, as covered by the contract, in accordance with established County procedures:

- a. Before payment is made, the Contractor shall prepare for the Director's approval a statement covering the actual work completed under the terms of the Job Order. A schedule of values listed by "CSI" or "Category" from the Contractors Job Order Price Proposal may be utilized for said schedule of values.
- b. In making such payment there shall be a retention of five (5 %) percent of the payment requested. If, after 50 percent of the work of the Job Order has been completed, the Director finds that satisfactory progress is being made, the Director may reduce the retention to two and one half (2 ½ %) percent of the amount requested. In addition, after 97.5 % percent of the work has been completed, the Director may reduce the amount withheld to such lesser amount as the Director determines to be adequate security for the fulfillment of the balance of the work and other requirements of the contract. In no event will said amount be reduced to less than 125 % percent of the estimated value of the work yet to be completed, as determined by the Director. Such reduction will only be made upon the written request of the Contractor and shall be approved in writing by the surety upon the Performance Bond and the surety upon the Payment Bond. The signature of persons executing the approval for the surety shall be properly acknowledged and the power of attorney authorizing him to give such consent must accompany the approval document.
  1. Substitution of securities for any moneys withheld by the Owner to ensure performance under a contract shall be permitted, provided that substitution of securities provisions shall not apply to contracts in which there will be financing provided by the Farmers Home Administration of the United States Department of Agriculture pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. Sec. 1921 et seq.), and where federal regulations or policies, or both, do not allow the substitution of securities.
  2. At the request and expense of the Contractor and in compliance with Public Contract Code Section 22300, securities equivalent to the amount withheld pursuant to these specifications shall be deposited by the Contractor with the Owner, or with a state or federally chartered bank as the escrow agent, who shall then pay such withheld amounts to the Contractor upon written authorization of the Owner.
  3. Securities eligible for investment under this section shall include those listed in Section 16430 of the Government Code, bank or savings and loans certificates of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by the contractor and the Owner.
  4. Securities to be placed in escrow shall be of a value at least equivalent to the amounts of retention to be paid to the Contractor.
  5. The Contractor shall be beneficial owner of any securities substituted for moneys withheld and shall receive any interest thereon.
  6. The Contractor shall enter into an escrow agreement satisfactory to the Owner, which agreement shall substantially comply with Public Contract Code Section 22300.



7. The Contractor shall obtain the written consent of the surety to such escrow agreement.
- c. All material and work covered by progress payments made shall thereupon become the sole property of the Owner, but this provision shall not be construed as relieving the Contractor from the sole responsibility for all materials and work upon which payments have been made or the restoration of any damaged work or as a waiver of the right of the Owner to require the fulfillment of all of the terms of the contract.
- d. Upon completion and acceptance of all work whatsoever required, and the release of all claims against the Owner as specified, the Director shall file a written Notice of Completion, if required by the County, with the County Recorder as to the entire amount of work performed.
- e. Forty-five (45) days after the filing of such Notice of Completion, if required by the Owner, the Owner will pay to the Contractor the amount therein stated, except as provided in paragraph 2.11-g, less all prior payment and advances whatsoever to or for the account of the Contractor, and less material and labor claims duly filed with the Owner on account of this contract. All prior estimates and payments including those relating to extra work shall be subject to correction by this final payment which is referred to throughout this Contract as the Final Payment.
- f. The acceptance by the Contractor of the final payment shall be and shall operate as a release to the Owner of all claims and of all liability to the Contractor for all things done or furnished in connection with this work and for every act and neglect of the Owner and others relating to or arising out of this work, excepting the Contractor's claims for interest upon final payment, if this payment be improperly delayed. No payments, however, final or otherwise shall operate to release the Contractor or his/her sureties from any obligations under this contract or the Performance and Payment Bonds.
- g. Payments may be withheld in the whole or in part if such course be deemed necessary to protect the Owner from loss on account of the failure of the Contractor to (1) meet his/her obligations, (2) expedite the work, (3) correct rejected work, (4) settle damages as herein provided, (5) produce substantial evidence that no claims will be or have been filed, or (6) that unpaid balances may be insufficient to complete the work.
- h. The Contractor shall pay:
1. For all transportation and utility services not later than the 20th day of the calendar month following that in which such services are rendered.
  2. For all materials, tools, and other expendable equipment to the extent of 90 percent of the cost thereof, not later than the 20th day of the calendar month following that in which such materials, tools and equipment are delivered at the site of the project, and the balance of the cost thereof not later than the 30th day following the completion of that part of the work in or on which such materials, tools and equipment are incorporated or used.
  3. To each of his/her Sub-Contractors, not later than the tenth day following each payment to the Contractor, the respective amounts allowed the Contractor on account of the work performed by his/her Sub-Contractors, including that work performed and paid for under a Change to the Job Order as provided in Section 2.12, to the extent of each Sub-Contractor's interest therein.

## 2.12 CHANGES TO THE JOB ORDER

- a. Changes Requested by the Owner -The Owner may, without invalidating the Job Order, order changes, modifications, deletions, and extra work by issuing additional written Job Orders during the progress of the Work. The Contractor shall not be entitled to compensation for any extra work performed unless the Director has issued an additional written Job Order designating (i) the extra work to be performed, (ii) the price of the extra work, and (iii) the time for completion of the extra work. If the Owner orders work added or deleted from the Job Order, the price for the additional Job Order shall be determined using the Procedure for Ordering Work set forth in 3.04 of the Supplemental General Conditions. Credits for prepriced and non prepriced Tasks shall be calculated at the pre-set Unit Prices and multiplied by the appropriate Adjustment Factors. The results is that a credit for Tasks that have been deleted from the Detailed Scope of Work will be given at 100% of the value at which they were included in the original Job Order Price Proposal.
- b. Changes in the Work Claimed by the Contractor - The Contractor may request a change in the Job Order Price or an extension of time for





completion of the Job Order due to changes in the Work that are not within the scope of the Job Order. The request must be in writing and must be submitted to the Owner prior to beginning the extra work. The Contractor shall not be entitled to compensation for any extra work performed unless the Director has issued an additional written Job Order designating (i) the extra work to be performed, (ii) the price of the extra work, and (iii) the time for completion of the extra work. If the Owner agrees that work is added to or deleted from the Job Order, the price for the additional Job Order shall be determined using the Procedure for Ordering Work set forth in Paragraph 3.04 of the Supplemental General Conditions.

- c. Where the Contractor and the Owner disagree on the scope of, price of, and/or time for changes in the Detailed Scope of Work, the Owner may require the Contractor to perform such work under a written protest, pursuant to the Resolution of Contract Claims in 2.16 of these General Conditions. The Contractor's failure to submit a written protest to the Director within 5 days of beginning such work constitutes a waiver of any claim.

#### 2.13 ASSIGNMENT OF MONEYS

The Contractor shall not assign moneys due or to become due him 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.

#### 2.14 GUARANTEE OF WORK

All work shall be guaranteed by the Contractor, except as may be otherwise specified, against defects resulting from the use of inferior materials, equipment or workmanship for one year from the date of completion of the Job Order.

If repairs or changes are required in connection with guaranteed work within any guaranteed period, which, in the opinion of the Owner is rendered necessary as the result of the use of materials, equipment or workmanship which are inferior, defective, or not in accordance with the terms of the contract, the Contractor shall, promptly upon receipt of notice from the Owner, and without expense to the Owner (1) place in satisfactory condition in every particular all of such guaranteed work, correct all defects therein, and (2) make good all damage to the building or site, or equipment or contents thereof, which, in the opinion of the Owner, is the result of the use of materials, equipment or workmanship which are inferior, defective, or not in accordance with the terms of the contract; and (3) make good any work or materials, or the equipment and contents of said building or site disturbed in fulfilling any such guarantee.

If the Contractor disturbs any work guaranteed under another contract in fulfilling the requirements of the contract or of any guarantee, embraced in or required thereby, he shall restore such disturbed work to a condition satisfactory to the Director and guarantee such restored work to the same extent as it was guaranteed under such other contract.

The owner may have the defects corrected if the Contractor, after notice, fails to proceed promptly to comply with the terms of the guarantee and the Contractor and his/her surety shall be liable for all expense incurred.

All special guarantees applicable to definite parts of the work that may be stipulated in the Contract Documents shall be subject to the terms of this paragraph during the first year of the life of such special guarantee.

#### 2.15 RESPONSIBILITY FOR DAMAGE

Neither the Owner, the Director of Department of Internal Services, nor any officer or employee of the County or any incorporated city, or officer or employee thereof, within the limits of which the work is being performed, shall be answerable or accountable in any manner, for any loss or damage that may happen to the work or any part thereof; or for any of the materials or other things used or employed in performing the work; or for injury to any person or persons, either workmen or the public, for damage to property from any cause which might have been prevented by the Contractor, or his/her workmen, or anyone employed by him, against all of which injuries or damages to persons and property the Contractor having control over such work must properly guard.

The Contractor shall be responsible for any liability imposed by law for any damage to any person or property resulting from defects or obstructions or from any cause whatsoever during the progress of the work or at any time before the completion and final acceptance.

The Contractor agrees to indemnify, save, hold harmless and at the County's request, defend the County, its all officers, agents, and employees from any and all costs and expenses, attorney fees and court costs, damages, liabilities, claims and losses occurring or resulting to County in connection with the performance, or failure to perform, by Contractor, its officers, agents or employees under this agreement and from any and all costs and



expenses, attorney fees and court costs, damages, liabilities, claims and losses occurring to any person, firm or corporation who may be injured or damaged by the performance or failure to perform, of contractor, its officers, agents, or employees under this agreement.

## 2.16 RESOLUTION OF CONTRACT CLAIMS

Public works contract claims of three hundred seventy-five thousand (\$375,000) or less which arise between a Contractor and a local public agency shall be resolved in accordance with the provisions of Article 1.5 (Sections 20104-20104.6, inclusive) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code. Article 1.5 requires that its provisions or a summary thereof be set forth in the plans and specifications for any work which may give rise to a claim thereunder. Accordingly, this contract incorporates all of the terms and conditions of Article 1.5, as follows:

### Article 1.5 Resolutions of Contract Claims

20104. (a)(1) This article applies to all public works claims of three hundred seventy-five thousand dollars (\$375,000) or less which arise between a contractor and a local agency.

(2) This article shall not apply to any claims resulting from a contract between a contractor and a public agency when the public agency has elected to resolve any disputes pursuant to Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2.

(b)(1) "Public work" has the same meaning as in Sections 3100 and 3106 of the Civil Code, except that "public work" does not include any work or improvement contracted for by the state or the Regents of the University of California.

(2) "Claim" means a separate demand by the contractor for (A) a time extension, (B) payment of money or damages arising from work done by or on behalf of the contractor pursuant to the contract for a public work and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to, or (C) an amount the payment of which is disputed by the local agency.

(c) The provisions of this article or a summary thereof shall be set forth in the plans or specifications for any work which may give rise to a claim under this article.

(d) This article applies only to contracts entered into on or after January 1, 1991.

20104.2 For any claim subject to this article, following requirements apply:

(a) The claim shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment. Nothing in this subdivision is intended to extend the time limit or supersede notice requirements otherwise provided by contract for the filing of claims.

(b)(1) For claims of less than fifty thousand dollars (\$50,000), the local agency shall respond in writing to any written claim within 45 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses or claims the local agency may have against the claimant.

(2) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the local agency and the claimant.

(3) The local agency's written response to the claim as further documented shall be submitted to the claimant within 15 days after receipt of the further documentation or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.

(c)(1) For claims of over fifty thousand dollars (\$50,000) and less than or equal to three hundred seventy-five thousand dollars (\$375,000), the local agency shall respond in writing to all written claims within 60 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses or claims the local agency may have against the claimant.

(2) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the local agency and the claimant.

(3) The local agency's written response to the claim, as further documented, shall be submitted to the claimant within 30 days after receipt of the further documentation, or within a period of time no greater than that taken by the claimant in producing the additional information or requested documentation, whichever is greater.

(d) If the claimant disputes the local agency's written response, or the local agency fails to respond within the time prescribed, the



claimant may so notify the local agency in writing, either within 15 days of receipt of the local agency's response or within 15 days of the local agency's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a demand, the local agency shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(e) If following the meet and confer conference the claim or any portion remains in dispute, the claimant may file a claim pursuant to Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the claimant submits his/her or her written claim pursuant to subdivision (a) until the time the claim is denied, including any period of time utilized by the meet and confer conference.

20104.4 The following procedures are established for all civil actions filed to resolve claims subject to this article:

(a) Within 60 days, but no earlier than 30 days, following the filing or responsive pleadings, the court shall submit the matter to nonbinding mediation unless waived by the mutual stipulation of both parties. The mediation process shall provide for the selection within 15 days by both parties of disinterested third person as mediator, shall be commenced within 30 days of the submittal, and shall be concluded within 15 days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to the court or by stipulation of both parties. If the parties fail to select a mediator within the 15-day period, any party may petition the court to appoint the mediator.

(b)(1) If the matter remains in dispute, the case shall be submitted to the judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of that code. The Civil Discovery Act of 1986 (Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rule pertaining to judicial arbitration.

(2) Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of this article shall be experienced in construction law, and, upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates of pay not to exceed their customary rate, and such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall these fees or expenses be paid by state or county funds.

(3) In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, any party who after receiving an arbitration award requests a trial de novo but does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, pay the attorney's fees of the other party arising out of the trial de novo.

(c) The court may, upon request by any party, order any witnesses to participate in the mediation or arbitration process. Arbitrators shall be experienced in construction law.

20104.6 (a) No local agency shall fail to pay money as to any portion of a claim which is undisputed except as otherwise provided in the contract.

(b) In any suit filed under Section 20104.4, the local agency shall pay interest at the legal rate on any arbitration award or judgment. The interest shall begin to accrue on the date the suit is filed in a court of law.

## 2.17 INSURANCE

Without limiting the COUNTY's right to obtain indemnification from CONTRACTOR or any third parties, CONTRACTOR, at its sole expense, shall maintain in full force and effect, the following insurance policies or a program of self-insurance, including but not limited to, an insurance pooling arrangement or Joint Powers Agreement (JPA) throughout the term of the Agreement:

### A. Commercial General Liability

Commercial General Liability Insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence and an annual aggregate of Two Million Dollars (\$2,000,000). This policy shall be issued on a per occurrence basis. COUNTY may require specific



coverages including completed operations, products liability, contractual liability, Explosion-Collapse-Underground, fire legal liability or any other liability insurance deemed necessary because of the nature of this contract.

B. Automobile Liability

Comprehensive Automobile Liability Insurance with limits for bodily injury of not less than Two Hundred Fifty Thousand Dollars (\$250,000.00) per person, Five Hundred Thousand Dollars (\$500,000.00) per accident and for property damages of not less than Fifty Thousand Dollars (\$50,000.00), or such coverage with a combined single limit of Five Hundred Thousand Dollars (\$500,000.00). Coverage should include owned and non-owned vehicles used in connection with this Agreement.

C. Professional Liability

If CONTRACTOR employs licensed professional staff, (e.g., Ph.D., R.N., L.C.S.W., M.F.C.C.) in providing services, Professional Liability Insurance with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence, Three Million Dollars (\$3,000,000.00) annual aggregate.

D. Worker's Compensation

A policy of Worker's Compensation insurance as may be required by the California Labor Code.

E. All-Risk Insurance On The Work

Contractor shall procure and maintain at Contractor's sole cost and expense, Builders Risk Course of Construction insurance, including fire and vandalism coverage, covering the entire work (including any County furnished material and equipment) against loss or damage until completion and acceptance by the County. Such insurance shall be for each Job Order in an amount up to the value of each Job and endorsed for broad form property damage, breach of warranty, demolition costs, and debris removal. Deductible not exceeding 5% of the cost will be permitted. Said policy to cover Contractor, Contractor's subcontractors, the County, its agents, the awarding entity, and any Trustee, under the indenture or trust agreement securing the bonds, certificates of participation, or other evidences of indebtedness issued to finance the work contemplated herein. The value of the policy shall be in U.S. currency.

CONTRACTOR shall obtain endorsements to the Commercial General Liability insurance naming 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 COUNTY, 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 COUNTY.

Within thirty (30) days from the date CONTRACTOR executes this Agreement, CONTRACTOR shall provide certificates of insurance and endorsement as stated above for all of the foregoing policies, as required herein, to the County of Fresno - Facility Services, 4590 E. Kings Canyon Road, Fresno, CA 93702 Attn: Fenix Batista stating that such insurance coverage have been obtained and are in full force; that the County of Fresno, its officers, agents and employees will not be responsible for any premiums on the policies; that such Commercial General Liability insurance names 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; that such coverage for additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained by COUNTY, its officers, agents and employees, shall be excess only and not contributing with insurance provided under CONTRACTOR's policies herein; and that this insurance shall not be cancelled or changed without a minimum of thirty (30) days advance, written notice given to COUNTY.

In the event CONTRACTOR fails to keep in effect at all times insurance coverage as herein provided, the COUNTY may, in addition to other remedies it may have, suspend or terminate this Agreement upon the occurrence of such event.

All policies shall be with admitted insurers licensed to do business in the State of California. Insurance purchased shall be purchased from companies possessing a current A.M. Best, Inc. rating of A FSC VII or better.



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2.18 BONDS

**Bid Deposit (Security):** The bidder shall furnish a proposal guarantee consisting of a bid bond, cash, certified check, or cashier's check for twenty five thousand dollars (\$25,000).

In the event a bidder or bidders fail to enter into an agreement(s) for the services offered under their bid(s), such bid deposit shall be forfeited to County.

The bid deposit shall be in the form of a cashier's check, irrevocable letter of credit or a bid bond. The bidder's security when in the form of a cashier's check or bond shall be made payable to the County of Fresno.

The bid deposit of the apparent successful bidder(s) shall be retained by County until the agreement(s) have been fully executed by the apparent successful bidder(s) and the County or until County determines that all bids have been rejected.

All other bid deposits (except bonds) will be returned promptly following execution of all agreements or when all bids have been rejected. Bonds will be returned only upon written request from the bidder.

Payment and Performance Bonds will be in place for all Task Job Orders in an amount equal to the sum of any outstanding Task Job Orders.

**Bonding Company Requirements:** Each bond specified in this RFQ (bid bond, faithful performance bond and payment bond) shall meet the requirements of all applicable statutes, including but not limited to those specified in Public Contract Code section 20129 and Civil Code section 3248. Each bond specified in this RFQ shall be issued by a surety company designated as an admitted surety insurer in good standing with and authorized to transact business in this state by the California Department of Insurance, and acceptable to the County of Fresno. Bidders are cautioned that representations made by surety companies will be verified with the California Department of Insurance. Additionally, the County of Fresno, in its discretion, when determining the sufficiency of a proposed surety company, may require the surety company to provide additional information supported by documentation. The County generally requires such information and documentation whenever the proposed surety company has either a Best's Key Rating Guide of less than B+ or a financial size designation of less than VIII. Provided, however, that the County expressly reserves its right to require all information and documentation to which the County is legally entitled from any proposed surety company.

**PERFORMANCE BOND:** The successful bidders may be required to furnish a faithful performance bond.

**BONDS:** The successful bidder will be required to furnish a Faithful Performance Bond and a Labor and Materials Bond in an amount equal to one hundred percent (100%) of the contract price.

**BONDING COMPANY:** The company issuing bonds shall be a corporate surety admitted by the California Insurance Commissioner to do business in the State of California with an A.M Best rating of B++ VIII or better.

CONTRACTOR shall ensure that any subcontractors or other agents used in fulfilling the terms and obligations of this Agreement shall have the same level of insurance and indemnification required of CONTRACTOR.

In the event CONTRACTOR fails to keep in effect at all times insurance coverage as herein provided, the COUNTY may, in addition to other remedies it may have, suspend or terminate this Agreement upon the occurrence of such event.



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## SUPPLEMENTAL GENERAL CONDITIONS

### 3.01 GENERAL CONDITIONS

The foregoing General Conditions shall form a part of this section with the same force and effect as though repeated herein.

The Contractor will be provided, at Owner expense, with one (1) set of Contract Documents. Additional Contract Documents may be obtained at the Contractor's expense, and upon 48 hour notice to the Owner, by placing an order through a reproduction company bonded to transport, print and return Owner documents.

### 3.02 PRE-BID CONFERENCE

PRE-BID CONFERENCE: Prospective bidders must attend the Mandatory pre-bid conference. Due to the relative complexity of this type of procurement, a detailed orientation on the Job Order Contracting System will be provided as well as a discussion on Job Order Contracting from the Contractor's viewpoint at the pre-bid conference. The pre-bid conference will be held at March 11, 2015 at 10:00 a.m. The conferences will be held in the Elections Training Room at 4525 E. Hamilton Avenue, Fresno, Ca. 93702.

### 3.03 CONFIDENTIALITY OF INMATES/WARDS/PATIENTS/CLIENTS IDENTITY

Some of the Work to be done under this Contract may be done in secured facilities or facilities that require confidentiality. Contractors shall alert and inform their employees that State law requires that the identities of inmates/wards/patients/clients be kept confidential.

Revealing the identities of inmates/wards/patients/clients is punishable by law.

### 3.04 SCOPE OF WORK AND PROCEDURE FOR ORDERING WORK

#### a. Scope of Work

1. This is an indefinite-quantity contract pursuant to which the Contractor will perform an ongoing series of individual projects at different locations throughout the County of Fresno. This Contract is for construction services specified in the individual Job Orders and effective for the period of 12 months or the expenditure of the \$2,000,000 Maximum Contract Value, whichever occurs first. The Maximum Contract Value may be increased by up to the sum authorized by Public Contract Code Section 20128.5 (currently approximately \$4,500,000 million dollar). Any increase in the Maximum Contract Value will be by bi-lateral agreement.
2. The bid documents include a Construction Task Catalog® containing construction tasks with preset unit prices. All Unit Prices are based on local labor, material and equipment prices and are for the direct cost of construction.
3. The Contractor will be required to Work at any of the Owner's facilities. The Owner makes no commitment as to the award of individual Job Orders. All costs associated with preparing Proposals shall be the responsibility of the Contractor.
4. Work or performance shall be made only as authorized by Job Orders issued in accordance with these General Conditions. The Contractor shall furnish to the Owner, the supplies or services specified in the Job Orders up to and including the Maximum Contract Value. The Owner shall give the Contractor the opportunity to perform at least the Minimum Contract Value of construction services designated in the Contract Documents.
5. The Scope of Work of this Contract shall be determined by individual Job Orders. The Job Order will reference the Detailed Scope of Work and set forth the Job Order Completion Time, and the Job Order Price. The Job Order Price is determined by multiplying the preset Unit Prices by the appropriate quantities and by the appropriate Adjustment Factor. The Job Order Price shall be a lump sum, fixed price for the completion of the Detailed Scope of Work. A separate Job Order will be issued for each project. Extra work, credits, and deletions will be contained in additional Job Orders. The Contractor shall provide all pricing, management, design drawings, shop drawings, documents, Work, materials, supplies, parts (to include system components), transportation, plant, supervision, labor, and equipment needed to complete the Job Order. The Contractor shall provide quality assurance as specified in strict accordance with the Contract. The Contractor shall also be responsible for site safety as well as site preparation and cleanup.
6. The Contractor shall conduct the Work in strict accordance with the Contract and all applicable federal, state, and local laws, regulations, or codes.
7. Contractor shall maintain accurate and complete records, files and libraries of documents to include federal, state, and local



regulations, codes, applicable laws listed herein, and manufacturers' instructions and recommendations, which are necessary and related to the Work to be performed.

8. Contractor shall prepare and submit required reports, maintain current record drawings, and submit required information. The Contractor shall provide: materials lists to include trade names and brand names, and model materials lists to include trade names, brand names, model number, and ratings (if appropriate) for all materials necessary for a complete job.
9. All Work will be ordered and funded when needed in accordance with the procedures contained in the Contract Documents.
10. All Work will be controlled and monitored by the Owner or designated representative.
11. The design of architectural, structural, mechanical, electrical, civil, or other engineering features of the Work required by the Contract shall be accomplished or reviewed and approved by architects or engineers registered in the State of California to practice in the particular professional field involved.
12. In addition to the Work unit requirements in the General Requirements Contract Technical Specifications, Volume 3, and the Construction Task Catalog® (CTC), Volume 4, the Owner may, from time to time, require Non-Prepriced (NPP) Tasks. The parties shall proceed with these requirements in accordance with the Procedure for Ordering Work contained in Paragraph 3.04 of these General Conditions. These NPP Work unit requirements will be incorporated in individual Job Orders and the Contractor shall accomplish those requirements with the same diligence as those Work units incorporated in this Contract in the Construction Task Catalog® and Technical Specifications.

b. Procedure For Ordering Work

1. As the need for work arises, the Owner will notify the Contractor of the Work and provide written notification.
2. Upon receipt of this notification, the Contractor shall respond within one working day by:
  - (a) Establishing verbal contact with the Owner to further define the scope of the requirement, and
  - (b) Visiting the proposed Work site in the company of the Owner, and participating in the conduct of a Joint Scope Meeting which will include discussion and establishment of the following:
    - (1) Project number and title
    - (2) Existing site conditions
    - (3) Methods and alternatives for accomplishing Work
    - (4) Definition and refinement of requirements
    - (5) Detailed Scope of Work
    - (6) Requirements for design drawings, sketches, shop drawings, submittals, etc.
    - (7) Tentative construction schedule
    - (8) Preliminary quantity estimates
    - (9) Access to the site and protocol for admission
    - (10) Hours of operation
    - (11) Staging area
    - (12) Liquidated damages
    - (13) Presence of hazardous materials
    - (14) Proposal due date
3. Upon completion of the Joint Scope Meeting, 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 (RFP) and Detailed Scope of Work, which requires that the Contractor prepare a Proposal for the Work under consideration. 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 Job Order Proposal 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.





4. The Contractor will prepare the Job Order Price Proposal in accordance with the following:
- (a) **Prepriced Work requirements.** A Prepriced Task is a task described and for which a Unit Price is set forth in the Construction Task Catalog®. Prepriced Work requirements will identify the type and number of Work units required from the Construction Task Catalog® (CTC). The price per unit set forth in the CTC shall serve as the base price for the purpose of the operation of this provision. The total of the Job Order Price Proposal shall be the sum of the cost of each applicable CTC task, which is calculated according to the following formula:  
$$A = \text{Number of Units Required for CTC Task}$$
$$B = \text{Applicable Adjustment Factor}$$
$$C = \text{CTC Price per Unit}$$

Cost of CTC Task

$$A \times B \times C$$
  - (b) The Contractor's Proposal shall include support documentation to indicate that adequate engineering and planning for the requirement have been done, and that the Work units and quantities proposed are reasonable for the tasks to be performed. Documentation to be submitted with the Proposal shall include, but not be limited to, the Job Order Price Proposal, design drawings, calculations, catalog cuts, specifications, and architectural renderings, Subcontractor list, and construction schedule. Any Proposal lacking the required items will be considered incomplete and be returned and treated as if never received. Proposals submitted to the Owner are valid for the duration of the Contract.
  - (c) Non-Prepriced Work Requirements: Non-prepriced Work shall be separately identified and submitted in the Job Order Price Proposal. Information submitted in support of Non-Prepriced Work shall include, but not be limited to, the following:
    - (1) Complete specifications and technical data, including Work unit content, support drawings, Work unit costs data, quality control and inspection requirements.
    - (2) Work schedule in written form.
    - (3) Pricing data submitted in support of non-prepriced work units 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 Owner, costing data will be submitted, demonstrating that the Contractor sought and received three quotes. The Contractor shall provide an installed unit price (or demolition price if appropriate), which shall include all costs required to accomplish the Non-Prepriced Task.
    - (4) If the Contractor will perform the work with its own forces, it shall submit three independent quotes for all material to be installed and shall, to the extent possible, use prepriced labor and equipment from the Construction Task Catalog®. If the work is to be subcontracted, the Contractor must submit three independent bids from subcontractors. The Contractor shall not submit a quote or bid from any supplier or subcontractor that the Contractor is not prepared to use. The Owner may require additional quotes and bids if the suppliers or subcontractors are not acceptable or if the prices are not reasonable.
    - (5) The final price submitted for Non Prepriced (NPP) Tasks shall be according to the following formula:

**Contractor Performed Duties**

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

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

**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 can not 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**(6) The Owner will evaluate the entire Proposal and proposed Work units and compare these with the Owner's estimate of the Detailed Scope of Work to determine the reasonableness of approach, including the nature and number of Work units proposed. The Owner will determine whether the Contractor's Job Order Price Proposal is in line with its own estimate.

- (7) After using a non-prepriced item on three separate Job Orders, the unit price for the work item will be established, following approval by the Owner, and fixed as a permanent pre-priced item, which will no longer require price justification.
  - (8) The Owner's determination as to whether an item is a Prepriced Task or a Non-Prepriced Task shall be final, binding and conclusive as to the Contractor.
  - (9) Whenever, because of trade jurisdiction rules or small quantities, the cost of a minor task in the Job Order Price Proposal is less than the cost of the actual labor and materials to perform such task, the Owner may permit the Contractor to be paid for such task as a Non-prepriced Task, or use Prepriced 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 can not be scheduled at the same time and the final charge does not exceed \$1,000.00.
- (d) Processing Time Limits
- (1) Request for Proposal Submittal. Contractor shall submit the Proposal for the Job Order to the Owner on or before the due date stated in the Request for Proposal (RFP) (14 days maximum unless otherwise specified).
  - (2) Request for Information Submittal. Contractor shall make a thorough analysis of each Job Order and submit all Requests For Information (RFI's) within 7 days after issuance of any RFP. Submission of RFI's shall in no way extend the proposal due date unless deemed necessary by the Owner.
  - (3) Job Order Price Proposal Review. Contractor's Project Manager or agent shall be available for Job Order Price Proposal review meetings within 24 hours of being notified by the Owner (via fax, e-mail, or telephone). After review of the Job Order Price Proposal, Contractor shall remove all inappropriate line items and adjust quantities as directed by the Owner.
  - (4) Job Order Price Proposal Modification. Only on the Contractor's second Job Order Price Proposal shall he/she be granted the opportunity to add new valid line items that may have been omitted from the first Job Order Price Proposal. Contractor shall submit a revised Job Order Price Proposal within 24 hours of Job Order Price Proposal review meeting (unless otherwise specified). Upon review of revised Job Order Price Proposal, the Contractor shall remove all line items or adjust quantities deemed inappropriate by the Owner and re-submit the Job Order Price Proposal within 24 hours. No new line items may be added to the Job Order Price Proposal. No quantities increases or added modifiers will be accepted unless agreed to by the Owner during the second Job Order Price Proposal review meeting.
  - (5) The Owner reserves the right to reject a Contractor's Proposal or cancel a project for any reason. The Owner reserves the right to issue a Notice to Proceed to the Contractor without having a mutual agreement on a final Job Order Price, and that the Contractor will be paid by multiplying the actual quantities used by the appropriate Construction Task Catalog® Unit Price and the applicable Adjustment Factors. Non-Pre-Priced (NPP) Tasks will be priced according to the Total Cost formula set forth in Section 3.04 c 2 (c) (4) of these General Conditions. The Owner also reserves the right to not award a Job Order if it is determined to be in the best interests of the Owner or the proposed cost exceeds the Owner's estimate. The Owner may perform such work by other means. In these instances, the Contractor has no right of claim to recoup Proposal expenses including but not limited to the costs to attend the Joint Scope Meeting, review the Detailed Scope of Work, prepare a Job Order Proposal (including incidental architectural and engineering services), subcontractor costs, and the costs to review the Job Order Proposal with the Owner..
  - 6 Unilateral Job Order – The owner reserves the right to issue Job Orders based on the Owners Job Order Price Proposal for a specified Detailed Scope of Work (DSOW).



- (e) By submitting a signed Proposal to the Owner, the Contractor is agreeing to accomplish the Work outlined in the Detailed Scope of Work in accordance with the Request for Proposal at the lump sum price submitted for that particular Job Order. The Contractor shall include the necessary tasks and quantities in the Job Order Price Proposal and apply the appropriate Adjustment Factor(s) prior to delivering it to the Owner. The value of the Job Order Price Proposal shall be calculated by summing the total of the calculations for each prepriced Task (Unit Price x quantity x Adjustment Factor) plus the value of all Non prepriced Tasks. The Job Order Price shall be the value of the approved Job Order Price Proposal.
- (f) The Owner will evaluate the entire Job Order Priced Proposal and compare these with the Owner's estimate of the Detailed Scope of Work to determine the reasonableness of approach, including the appropriateness of the tasks and quantities proposed.
- (g) The Contractor may choose the means and methods of construction; subject however, to the Owner's right to reject any means and methods proposed by the Contractor that:
  - (1) Will constitute or create a hazard to the work, or to persons or property;
  - (2) Will not produce finished Work in accordance with the terms of the Contract; or
  - (3) Unnecessarily increases the price of the Job Order when alternative means and methods are available.
- (h) Each Job Order provided to the Contractor shall reference the Detailed Scope of Work and set forth the Job Order Price and the Job Order Completion Time. All clauses of this Contract shall be applicable to any Job Orders issued under this clause. Job Orders will be written on an appropriate form. The Job Order, which must be signed by the Owner, constitutes the Owner's acceptance of the Contractor's Proposal. A signed copy will be provided to the Contractor.
- (i) Except in an "emergency response" the Contractor is not to proceed with any Job Order without having required permits and a Notice to Proceed (NTP) signed by the Contract Manager.
- (j) In the event that "immediate emergency response" is necessary, the Owner may elect to use an alternative procedure for such type of Job Orders as long as the alternative procedure is not substantially more burdensome to the Contractor than the procedure described in this section.
- (k) All Proposals submitted by the Contractor are valid for the duration of the Contract.

c. Measurements to be Verified

Before ordering any material or doing any Work, the Contractor shall verify all measurements at the site of a specific Job Order, and shall be responsible for the correctness of the measurements. No extra charge or compensation will be allowed based on the difference between actual dimensions and the measurements indicated in the Request for Proposal.

d. Contractor's Responsibility

It is the Contractors' responsibility to verify any and all such items prior to submission of the Proposal. Contractors are also cautioned that any Job Order awarded is for all services or Work, as necessary, to repair, and construct the facilities covered by the Contract in accordance with all Contract terms and conditions. It shall also be the duty and responsibility of the Contractor to manage and conduct the required Work in the most effective and efficient manner possible and meet or exceed minimum critical rates or standards.

In addition, the Owner will not entertain claims for additional money, when such claim is based upon a contention the Contract fails to mention a specific item or component of facility covered by the Job Order and the Work is required in the normal course of operations. For example, surfaced area repair statements may not mention culverts. However, culverts are a normal component of roads, streets, or erosion controls and are shown on plots or maps provided. As culverts are a normal component of the system, the Contractor shall be responsible for providing all necessary repair, or replacement Work or service.

e. Pre-Construction Conference

Before the issuance of the first Job Order under this Contract, a conference will be conducted by the Owner to acquaint the Contractor with Owner's procedures that are to be observed during the execution of the Work and to develop mutual understanding relative to the administration of the Contract.



f. Computer and Communications Equipment Requirements

The Contractor shall maintain at its office for its use a computer with, at a minimum, a 1 GHz processor and an internet connection. The Contractor shall maintain individual email accounts for each of its project managers.

g. Contractor Software License and License Fee

JOC Software

The County of Fresno selected The Gordian Group's Job Order Contracting ("JOC") Solution (Gordian JOC Solution™) for their JOC program. The Gordian JOC Solution includes Gordian's proprietary eGordian JOC applications (JOC applications) and construction cost data (Construction Task Catalog®), which shall be used by the Contractor to prepare and submit Job Order Price Proposals, subcontractor lists, and other requirements specified by the County of Fresno. The Contractor shall be required to execute Consultant's JOC System License and Fee Agreement, and pay a JOC System License fee to obtain access to Gordian's JOC Solution. The Contractor's use, in whole or part, of Gordian's JOC Applications, Construction Task Catalog® and other proprietary materials provided by Gordian for any purpose other than to execute work under this Contract for the County of Fresno is strictly prohibited unless otherwise approved in writing by Gordian. The Contractor hereby agrees to abide by the terms of the following JOC System License:

JOC System License

Gordian hereby grants to the Contractor, and the Contractor hereby accepts from Gordian for the term of this Contract or Gordian's Contract with the County of Fresno, whichever is shorter, a non-exclusive right, privilege, and license to Gordian's proprietary JOC System and related proprietary materials (collectively referred to as "Proprietary Information") to be used for the sole purpose of executing Contractor's responsibilities to the County of Fresno under this Contract. The Contractor hereby agrees that Proprietary Information shall include, but is not limited to, Gordian's JOC Applications and support documentation, Construction Task Catalog®, training materials and other Gordian provided proprietary materials. In the event this Contract expires or terminates as provided herein, or Gordian's Contract with the County of Fresno expires or terminates, or the Contractor fails to pay the JOC System License Fee specified in this Contract this JOC System License shall terminate and the Contractor shall return all Proprietary Information in its possession to Gordian.

The Contractor acknowledges that disclosure of Proprietary Information will result in irreparable harm to Gordian for which monetary damages would be an inadequate remedy and agrees that no such disclosure shall be made to anyone without first receiving the written consent of Gordian. The Contractor further acknowledges and agrees to respect the copyrights, registrations, trade secrets, and other proprietary rights of Gordian in the Proprietary Information during and after the term of this Contract and shall at all times maintain complete confidentiality with regard to the Proprietary Information provided to the Contractor.

In the event of a conflict in terms and conditions between this JOC System License and any other terms and conditions of this Contract or any Job Order, Purchase Order or similar purchasing document issued to the Contractor by the County of Fresno, this JOC System License shall take precedence.

Contractor License Fee

In consideration for a non-exclusive, non-transferable, license to the Gordian JOC Solution, the Contractor shall pay Gordian a license fee ("Contractor License Fee") equal to one percent (1%) of the value of each Job Order, Purchase Order or other similar purchasing document ("Purchase Order") issued to the Contractor by the County of Fresno. The Contractor License Fee shall be included in the Contractor's overhead costs, shall not be included as an additional line item cost in Job Order Price Proposals, and shall be payable to Gordian within ten (10) days of Contractor's receipt of each Purchase Order issued to the Contractor by the County of Fresno. Gordian is hereby declared to be an intended third-party beneficiary of this Agreement. In the event any court action is brought to enforce payment of the Contractor License Fee by any party or third-party beneficiary of this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and collection costs. The Contractor shall remit the Contractor License Fee as follows:

Make Checks Payable to: The Gordian Group, Inc.  
Mail Checks to: P.O. Box 751959



Charlotte, NC 28275-1959

Gordian may terminate this License Agreement in the event of: (1) any breach of a material term of this Agreement by the Contractor which is not remedied within ten (10) days after written notice to the breaching party; or (2) the other party's making an assignment for the benefit of its creditors, or the filing by or against such party of a petition under any bankruptcy or insolvency law, which is not discharged within thirty (30) days of such filing.

### 3.05 INTENT OF CONTRACT DOCUMENTS

Some of the Work may require the Contractor to work in in-patient care facilities. The intent Contract Documents will be to construct or reconstruct the hospital facilities for an individual Job Order in accordance with Title 24, California Code of Regulations. Should any conditions develop not covered by the contract documents wherein the completed work will not comply with said Title 24, California Code of Regulations, the Owner shall develop a Job Order detailing specifying any required work and will submit it to DSHPD for approval prior to proceeding with the work.

### 3.06 BUILDING PERMIT

The Contractor shall be responsible for all fees and costs incurred in connection with obtaining permits; however, the Owner will reimburse the Contractor for the actual cost of the permit or inspection fees, as part of the Job Order, with no additional allowance for overhead and profit.

### 3.07 CODES AND REGULATIONS

All work, materials, and equipment shall be in full compliance with the **2013** edition of the California Building Code; California Plumbing Code; California Electrical Code; Cal/OSHA Safety Regulations; and all Federal, State and Local laws, ordinances, regulations, and Fresno County Charter Provisions applicable in the performance of the work.

### 3.08 COORDINATION OF WORK

The Contractor shall coordinate all work with the Owner to minimize any interruptions to the normal operation of County operations; particularly interruptions to air conditioning, electrical services, alarm system, communications, and computer systems.

### 3.09 WORK DAY

All work shall be set forth as part of the Job Order.

Saturday and Sunday work will not be allowed except by written approval of the Owner, and upon 48 hours advance notice. Payment requirements for shift differential and overtime shall be as set forth in the Collective Bargaining Agreement for the trade, on file with the State Department of Industrial Relations, Division of Labor Statistics and Research. Bidders and contractors are urged to contact the Prevailing Wage Unit at 415/557-0561 or 415/703-4281 for information on these requirements.

### 3.10 SCHEDULE OF OPERATION

Time is of the essence in the performing of any Job Order under this Contract. The Contractor shall schedule the work in a manner that will progress to completion without interruption.

### 3.11 COOPERATION BETWEEN CONTRACTORS

- a. If separate Contracts are let for Work within or adjacent to the Project site as may further be hereinafter detailed in the Contract Documents, the Contractor shall conduct his Work so as not to interfere with or hinder the progress of completion of the Work being performed by other contractors.
- b. The Contractor shall assume all liability, financial or otherwise, in connection with this Contract, and shall protect and hold harmless the Owner from any and all damages or claims that may arise because of inconvenience, delay, or loss experienced by the Contractor because of the presence and operations of other contractors working within the limits of the same improvement. The Contractor shall assume all responsibility for all Work not completed or accepted because of the presence and operations of other contractors.
- c. The Contractor shall arrange the Work and placement and disposal of the materials being used, so as not to interfere with the operations of other contractors within or adjacent to the limits of the Project site. The Contractor shall join the Work with that of others in an acceptable manner and shall perform it in proper sequence to that of others.



### 3.12 TEMPORARY FACILITIES

- a. Water and Electricity: 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. Contractor shall furnish fuel and other power for the operation of the heavy equipment, pneumatic tools and compressors.
- b. Toilet Facilities maybe available on the site to the workmen engaged in the performance of the contract. The use of such facilities may be revoked in the event of excess janitorial requirements or at the discretion of the County.

### 3.13 FIRE PROTECTION AND FIRE INSURANCE

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 10-ABC fire extinguisher for each 9,000 square feet of project area or fraction thereof.

### 3.14 DUST SEPARATION AND PROTECTIVE BARRICADES

When directed as part of an individual Job Order, the 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 buildings 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 buildings 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.

### 3.15 DAMAGE TO EXISTING WORK

Damage to existing construction, equipment, planting, etc., by the Contractor in the performance of his work shall be replaced or repaired and restored to original condition by the Contractor at the Contractor's expense.

### 3.16 PROTECTION OF ALARM, SECURITY, COMMUNICATIONS, AND COMPUTER SYSTEMS

The Contractor shall be responsible for all costs incurred by the Owner on these systems as a result of work by the Contractor or damage caused by the Contractor's operations, including costs associated with false fire alarms caused by Contractor operations.

### 3.17 SECURITY

Security provisions will be strictly enforced. All parties who are required to perform their individual services at the site shall be limited to the area required to complete the work. Such access shall be obtained by notification to the Facilities Services Manager or his designee, of the time and place, prior to commencing the work.

All keys used during construction shall be numbered. Each key issued shall be recorded and its prompt return shall be strictly enforced. Duplication of any keys issued is strictly prohibited. These keys shall be returned to the Owners representative at the end of each working day, when required.

Some of the Projects to be done under this Contract may be in secured facilities such as jails. Prior to commencement of work, the Contractor, including all Subcontractors and Vendors, shall obtain security clearances for all employees that will be working or making deliveries to the sites.

When work is performed in secured facilities, it is incumbent upon all Contractors to alert all workmen of the necessity for extreme care in accounting for, and keeping all areas free of any and all types of hand tools, power tools, small parts, scrap material, and all other materials which might be concealed upon the person of an inmate/ward/patient, at all times when such tools and materials are not used for the task at hand.

Each work area shall be kept clean and in order both during working hours and at the completion of the working day.

**3.18 PARKING**

The Owner will provide parking spaces at the project site when parking is available. Contractor shall not rely on Owner to provide parking.

**3.19 RECORD DRAWINGS**

The Contractor shall be provided with xerox bond prints at no cost, upon which a record of all changes to the project plans shall be made. As the work progresses, the Contractor will be responsible for and shall maintain a record of all deviations in the mechanical, electrical, plumbing and other work from that indicated on the plans. As a condition for considering the project complete, the record drawings must be delivered to the Resident Engineer, and deemed acceptable.

**3.20 GUARANTEE / WARRANTY RESPONSE**

Attention is directed to General Conditions Section 2.14 "Guarantee Of Work", the Guaranty in the Bid.

In lieu of any time limits imposed or implied by the above referenced contract documents or stated in standard product warranties or special warranties, the Contractor shall respond within 24 hours to notice from the Owner that repairs or changes are required in connection with guaranteed work or equipment within the guarantee period.

**3.21 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:
  1. 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.
  2. Subsurface or latent physical conditions at the site differing from those indicated.
  3. 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 Job Order.
- 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 an additional Job Order in accordance with the provisions of Section 2.12 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.

**3.22 ASBESTOS CONTAINING MATERIAL (ACM)**

When the Job Order requires the Contractor not to remove ACM, the contractor shall exercise caution when working around ACM to prevent the release of ACM into the atmosphere.

If damage to ACM results in release of airborne asbestos fibers to the atmosphere, then control measures required by Federal and State regulations must be instituted at the Contractor's expense.

Any ACM damaged by the Contractor's operations shall be repaired at the Contractor's expense in accordance with applicable Federal, State and local laws and regulations.

When the Job Order requires the removal of ACM, the Contractor shall remove, transport, and dispose of either non-friable ACM or less than 100 square feet of friable ACM in accordance with Federal, State and local statutes and regulations.

The Contractor shall furnish project notification documents, employee information, equipment certifications, material specifications and samples,



project work plan and air monitoring plan, and other project submittals or documentation as required by statute or regulation.

The methods for removal and disposal of either non-friable ACM or friable ACM selected by the Contractor shall be approved by the Owner before commencing removal operations. If, during the course of removal operations, the Owner determines that removal methods used by the Contractor result or may result in releasing airborne asbestos fibers to the atmosphere, the Contractor shall immediately cease his current ACM removal operations and propose a new method for removal of ACM for the approval of the Owner.

If removal of ACM results in release of airborne asbestos fibers to the atmosphere, then control measures required by Federal and State regulations must be instituted at the Contractors expense.

Work area air monitoring may be required for individual Job Orders, at the discretion of the Owner. Work area air monitoring shall be paid for by the Contractor.

The Engineer reserves the right to require the Contractor, at the Contractors expense, to utilize a contractor certified by the Contractors State License Board and registered with the Division of Occupational Safety and Health to remove and dispose of ACM, if, in the opinion of the Engineer based on the Contractor's performance of ACM removal, only a certified and registered contractor would possess the technical skills and resources required to remove the ACM.

At the Contractor's option, removal and disposal of non-friable ACM or friable ACM where removal and disposal may result in release of airborne asbestos fibers to the atmosphere may be subcontracted to a contractor certified by the Contractors State License Board and registered with the Division of Occupational Safety and Health.

### 3.23 Right to Audit

All Accounting Records - The Contractor shall make available to the Owner for auditing, all relevant accounting records and documents, and other financial data, and upon request, shall submit true copies of requested records to the Owner.

Requests for Change and Claims - If the Contractor submits a Request for Change or a claim to the Owner, the Owner shall have the right to audit the Contractor's books to the extent they are relevant.

Audit Right Includes - This right shall include the right to examine books, records, documents, and other evidence and accounting procedures and practices, sufficient to discover and verify all direct and indirect costs of whatever nature claimed to have been incurred or anticipated to be incurred and for which the claim has been submitted.

Right To Inspect Plans - The right to audit shall include the right to inspect the Contractor's plans, or such parts thereof, as may be or have been engaged in the performance of the Work.

Right To Audit Subcontractors - The Contractor further agrees that the right to audit encompasses all subcontracts and is binding upon subcontractors. The rights to examine and inspect herein provided for shall be exercisable through such representatives as the Owner deems desirable during the Contractor's normal business hours at the office of the Contractor.



EFFECTIVE DATE: 12-18-89

REVISED: 08-06-90, 12-25-94, 05-06-96, 09-01-99, 12-01-10

APPROVED BY: Sheriff M. Mims

BY: Assistant Sheriff T. Gattie

AUTHORITY: California Code of Regulations, Title 15, Section 1029(a)(7)(B) and Penal Code Section 236.

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#### PURPOSE:

The purpose of this policy is to establish procedures which provide for the resolution of a hostage-taking incident while preserving the safety of staff, public, inmates, and hostages, and maintaining facility security.

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#### POLICY:

The Fresno County Sheriff's Office Jail Division maintains a **NO HOSTAGE FACILITY** and will not consider bargaining with hostage takers for ANY reason.

It is the policy of the Fresno County Sheriff's Office Jail Division that once any staff member is taken hostage, they immediately lose their authority and any orders issued by that person will not be followed regardless of their rank or status.

It is the policy of the Fresno County Sheriff's Office Jail Division that the primary responsibility of all staff members in a hostage situation is to protect every person involved, if possible, from serious injury or death.

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#### PROCEDURES:

##### I. DEFINITION

**Hostage Situation:** any staff member, citizen or inmate held against their will by another person for the purpose of escape, monetary gain or any reason which may place an individual in danger of losing life or suffering serious injury.

##### II. NOTIFICATIONS, CONTAINMENT AND CONTROL OF THE SITUATION

- A. Emergency procedures and notifications shall be implemented as per Emergency Planning procedures (B-101/FILE: EMERGENCY).
- B. The Watch Commander will notify the Patrol Watch Commander and apprise them of the incident. The Patrol Watch Commander may be requested to activate the Crisis Negotiations Team (CNT), outside support agencies, equipment, personnel, and dispatch a detective to the scene for the crime report.

##### III. DURING NEGOTIATIONS

- A. While at the scene, the CNT members will conduct all verbal or written communications between the hostage taker(s) and the Incident Commander. CNT will immediately notify the Incident Commander of any changes in the following situations:
  - 1. Hostage status
  - 2. Incident changes and developments
  - 3. Hostage taker demands

4. Any and all pertinent information concerning the incident
- B. Staff members at the scene not actively involved with negotiations will not act or speak out to the hostage taker(s) or hostages.
- C. The Tactical Commander will formulate a plan to take the necessary actions, using the appropriate force, to terminate the hostage situation in the event negotiations fail. Hostage safety will be of paramount concern.

#### IV. HOSTAGE SURVIVAL STRATEGIES [\[SRC1\]](#)

- A. If taken hostage, it is important to make the transition from being a victim to being a survivor. The following are not strict rules that must be rigidly followed, but rather general guidelines. There will always be exceptions.
  1. Regain/maintain composure. Try to be calm, focused and clear-headed at all times. Do not stand out from other hostages. Drawing unnecessary attention increases the chance of being singled out and victimized.
  2. Maintain a low-key, unprovocative posture. Overt resistance is usually counterproductive in a hostage situation.
    - a. Remain calm and follow instructions. Comply with the hostage takers when at all possible.
    - b. Be stoic. Maintain an outward face of acceptance of adversity with dignity. Avoid open displays of cowardice and fear. Inmates will view frailty and feebleness as weakness, which may lead to victimization.
    - c. Do not antagonize, threaten or aggravate the hostage takers. Avoid saying "no", or arguing with the hostage takers. Do not act authoritative. The hostage takers must make it known that they are in charge.
    - d. Eye contact may be regarded as a challenge; make eye contact with the hostage takers sparingly.
    - e. Fight off basic instincts, such as anger and hostility. Be polite and remain alert. Speak normally and don't complain.
  3. Hostages should try to establish a level of rapport or communication with their captors in attempt to get the captors to recognize them as human beings.
    - a. Find a mutual ground, an association with the hostage takers. Foster communication on non-threatening topics (e.g., family, hobbies, sports, interests).
    - b. Use the captors' first names, if known. However, if hostage takers are attempting to conceal their identity, do not give any indication that they are recognized.
    - c. Listen actively to the captors' feelings and concerns, but never praise, participate in, or debate their "cause". If they want to talk about their cause, act interested in their viewpoints. Avoid being overly solicitous, which may be viewed as patronizing or insincere.
    - d. Do not befriend the inmates; such an attempt will likely result in exploitation.
    - e. Try asking for items that will increase personal comfort. Make requests in a reasonable, low-key manner.
  4. Be prepared to be isolated and disoriented.
    - a. Do not talk to other hostages. The hostage takers may think a plot is being formed.

- b. Develop mind games to stimulate thinking and maintain mental alertness.
- 5. Be tolerant of fellow hostages. Just as each person has different reactions to stress, each individual will have different methods of coping as a hostage. Some methods are not effective and may endanger the group, or be annoying to other hostages (e.g., constant talking). Try to help these people cope in other ways.
- 6. Gather intelligence. Hostages should take in and store as much detail, about their captors as possible without drawing attention to their efforts. Make mental notes and attempt to gather the following information: identification of the ring leader, the number of hostage takers, the type of weapons they are using, their tactics, location within the area, etc.
- 7. Maintain hope. Depending on the circumstances, resolution of hostage situations can be a lengthy process.
- B. Stay away from doors and windows through which rescue teams may enter or shoot. If a rescue is attempted, drop to the floor and keep hands in view.
- C. If there is a chance to escape, the hostage should be certain of their success.
  - 1. Balance the likely payoff of any behavior with the possible consequences. Hostage takers may use violence or death to teach a lesson.
  - 2. Realize that Central Control will not open any doors for anyone.
- D. Hostages should be aware of the “Stockholm Syndrome”, whereby hostages begin to show sympathy toward their captors. Hostages who develop Stockholm Syndrome often view the captor as *giving life* by simply not taking it. Such hostages often misinterpret a *lack of abuse* as kindness and may develop feelings of appreciation for the perceived benevolence. [\[SRC2\]](#)

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[\[SRC1\]](#) Various sources, but the best was “*Survival Tips if You Are Taken Hostage*” by Tracy E. Barnhart, published 07-27-09 ([www.corrections.com](http://www.corrections.com))

[\[SRC2\]](#) “*Understanding Stockholm Syndrome*” FBI Law Enforcement Bulletin, July 2007.

## **SAMPLE AGREEMENT**

**This Sample Agreement is provided for illustration purposes only. The details in the actual Agreement may vary from the details in this sample.**

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**A G R E E M E N T**

**SAMPLE A G R E E M E N T**

This AGREEMENT (“Agreement”) is made and entered into this 13th day of March, 2012, by and between the COUNTY OF FRESNO, a political subdivision of the State of California, hereinafter "COUNTY", and Durham Construction Company, Inc., hereinafter “CONTRACTOR”.

WHEREAS, the COUNTY has a need for the Job Order Contracting services;  
and

WHEREAS, the CONTRACTOR is qualified and willing to perform said services.

NOW, THEREFORE, the parties agree as follows:

W I T N E S S E T H:

This AGREEMENT shall establish a competitively bid, fixed price, indefinite quantity, Job Order Contract. The scope of work to be performed pursuant to this Agreement includes a comprehensive listing of detailed repair and construction tasks and specifications that have pre-established units of measure and Unit Prices listed in a Construction Task Catalog® No. \_\_\_\_\_ developed for the COUNTY by the Gordian Group. The work under this AGREEMENT shall be carried out pursuant to individual Task or Job Orders and shall involve the repair, alteration, modernization, maintenance, rehabilitation, reconstruction, or construction of public buildings, streets, utilities, and other public works.

The obligations of all parties under this Agreement shall be as set forth in this Agreement and detailed in COUNTY’s Request for Quotation No. \_\_\_\_\_, COUNTY’S Addendum No. \_\_\_\_\_

thereto and CONTRACTOR's Response to Request for Quotation No. \_\_\_\_\_, all of which are attached hereto as Exhibits \_\_\_\_, \_\_\_\_, and \_\_\_\_, respectively and incorporated herein by reference. All capitalized terms used in this Agreement shall have the meanings attached to them as set forth in COUNTY's Request for Quotation No. \_\_\_\_\_.

I. OBLIGATIONS OF CONTRACTOR

A. CONTRACTOR agrees to furnish all labor and materials, including tools, implements, and appliances required, and to perform all the work in a good and workmanlike manner, free from any and all liens and claims of mechanics, material-men, subcontractors, artisans, machinists, teamsters, day-men and laborers required for completing specific Job Orders as directed by COUNTY.

B. In accordance with the provisions of Section 1770 of the Labor Code, the Director of the Department of Industrial Relations of the State of California has determined the general prevailing rates of wages and employer payments for health and welfare, pension, vacation, travel time, and subsistence pay as provided for in Section 1773.8, apprenticeship or other training programs authorized by Section 3093, and similar purposes applicable to the work to be done. Said wages are on file with the Clerk of the Board of Supervisors, Room 301, Hall of Records, Fresno, California, and are incorporated herein by reference.

It shall be mandatory upon the CONTRACTOR herein and upon any subcontractor to pay not less than the said specified rates to all laborers, workmen and mechanics employed by them in the execution of the Contract.

CONTRACTOR shall comply with Labor Code Section 1775. In accordance with said Section 1775, the CONTRACTOR shall forfeit as a penalty to the COUNTY \$50.00 for each calendar day or portion thereof, for each workman paid less than the stipulated prevailing rates for such work or craft in which such workman is employed for any work done under the Contract by CONTRACTOR or by any

1 subcontractor under CONTRACTOR in violation of the provisions of the Labor Code and in particular,  
2 Labor Code Sections 1770 to 1780, inclusive. In addition to said penalty and pursuant to said Section  
3 1775, the difference between such stipulated prevailing wage rates and the amount paid to each  
4 workman for each calendar day or portion thereof for which each workman was paid less than the  
5 stipulated prevailing wage rate shall be paid to each workman by the CONTRACTOR.

6 The CONTRACTOR and each subcontractor shall keep or cause to be kept an accurate record showing  
7 the names and occupations of all laborers, workmen and mechanics employed by him in connection  
8 with the execution of the Contract or any subcontract thereunder, and showing also the actual per diem  
9 wage paid to each of such workers, which records shall be open at all reasonable hours to inspection by  
10 the COUNTY, its officers and agents and to the representatives of the Division of Labor Law  
11 Enforcement of the State Department of Industrial Relations.

12 CONTRACTOR and any subcontractor under CONTRACTOR shall also comply with the provisions  
13 of Section 1777.5 and Section 1777.6 of the Labor Code concerning the employment of apprentices.

14 C. It is further understood and agreed that, in accordance with the provisions of Sections 1810  
15 to 1815 of the Labor Code of the State of California, eight (8) hours labor shall constitute a day's work,  
16 but because this is a contract for public work, work performed by employees of the CONTRACTOR  
17 and each Sub-Contractor in excess of eight (8) hours per day, and forty (40) hours in any one week,  
18 shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day at not  
19 less than one and one-half (1 1/2) times the basic rate of pay. The CONTRACTOR and each  
20 subcontractor shall keep an accurate record showing the names and actual hours worked of all workers  
21 employed by him in connection with the work contemplated by this Agreement, which record shall be  
22 open at all reasonable hours to the inspection of the COUNTY or its officer or agents and to the Chief  
23 of the Division of Labor Statistics and Law Enforcement of the Department of Industrial Relations, his  
24

1 deputies or agents. It is hereby further agreed that said CONTRACTOR shall forfeit as a penalty to the  
2 COUNTY the sum of twenty-five dollars (\$25) for each laborer, workman employed by  
3 CONTRACTOR or any subcontractor under CONTRACTOR, for each calendar day during which such  
4 laborer or workman is required or permitted to labor more than eight (8) hours in violation of this  
5 stipulation.

6 The Board of Supervisors hereby specifies that portions of the work can only be performed outside the  
7 regular working hours as defined in the applicable collective bargaining agreement filed with the  
8 Director of Industrial Relations in accordance with Labor Code Section 1773.1, and that the overtime  
9 requirements for Saturdays, and holidays are hereby waived for these portions of the work, as more  
10 particularly described in the specifications. However, this exemption shall not negate the overtime  
11 provisions specified in Labor Code Section 1815.

12  
13 D. All agreements between the CONTRACTOR, Sub-Contractors, and Sub-Contractors  
14 of lower tier shall be subject to the approval of the COUNTY. In no case does such approval  
15 relieve the CONTRACTOR of any conditions imposed by the Contract Documents. Sub-  
16 Contractors may be added, deleted or substituted only in accordance with the provisions of  
17 Public Contract Code Section 4100 et seq.

18 CONTRACTOR shall bind every Sub-Contractor by the terms of the Contract Documents to carry  
19 out their provisions insofar as applicable to their work; and the CONTRACTOR further agrees to pay  
20 to each Sub-Contractor promptly upon issuance of Certificate of Payment, his/her or their due portion.

21 Neither the acceptance of the name of Sub-Contractor nor the suggestion of such name nor any  
22 other act of the COUNTY nor anything contained in any Contract Document shall be construed as  
23 creating any contractual relation between the COUNTY and any Sub-Contractor of any tier.  
24



1 The COUNTY reserves the right to reject any proposed Sub-Contractor, installer, or supplier  
2 who cannot show satisfactory evidence of meeting the qualifications required by the Contract  
3 Documents. In the event of such rejection, the CONTRACTOR shall, within the time frame listed for  
4 submittal of revised Proposals, submit the name and qualifications of a replacement Sub-Contractor,  
5 installer or supplier satisfactory to the COUNTY. Such replacement submittal shall be in accordance  
6 with all Contract Documents. No adjustment of Job Order Price Proposal shall be made in the event of  
7 such replacement.

8 When an individual Job Order utilizes Federal Funds and the County elects to require  
9 Disadvantaged Business Enterprise (DBE) participation, the CONTRACTOR shall follow the Federal  
10 Good Faith Effort requirements for inclusion of DBE Sub-Contractors and suppliers.

## 11 12 II. OBLIGATIONS OF THE COUNTY

13 A. The COUNTY will identify projects and their intended results and will work with  
14 CONTRACTOR to develop scope and specifications.

15 B. The COUNTY will issue a Notice to Proceed for each Job Order and issue any  
16 required subsequent Job Orders for each Project.

17 C. The COUNTY will provide inspection and acceptance of the work.

## 18 19 III. TERM

20 The term of this Job Order Contract is either for one year or when issued Job Orders totaling the  
21 Maximum Contract Value have been completed, whichever occurs first. All Job Orders must be issued,  
22 but not necessarily completed within one calendar year of the commencement date of this Agreement as  
23 set forth on page one.  
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IV. TERMINATION

A. Non-Allocation of Funds - The terms of this Agreement, and the services to be provided thereunder, are contingent on the approval of funds by the appropriating government agency. Should sufficient funds not be allocated, the services provided may be modified, or this Agreement terminated, at any time by giving the CONTRACTOR thirty (30) days advance written notice.

B. Breach of Contract - The COUNTY may immediately suspend or terminate this Agreement in whole or in part, where in the determination of the COUNTY there is:

1. An illegal or improper use of funds;
2. A failure to comply with any term of this Agreement;
3. A substantially incorrect or incomplete report submitted to the COUNTY;
4. Improperly performed service.

In no event shall any payment by the COUNTY constitute a waiver by the COUNTY of any breach of this Agreement or any default which may then exist on the part of the CONTRACTOR. Neither shall such payment impair or prejudice any remedy available to the COUNTY with respect to the breach or default. The COUNTY shall have the right to demand of the CONTRACTOR the repayment to the COUNTY of any funds disbursed to the CONTRACTOR under this Agreement, which in the judgment of the COUNTY were not expended in accordance with the terms of this Agreement. The CONTRACTOR shall promptly refund any such funds upon demand.

c. Without Cause - Under circumstances other than those set forth above, this Agreement may be terminated by COUNTY upon the giving of thirty (30) days advance written notice of an intention to terminate to CONTRACTOR.

V. COMPENSATION/INVOICING:

COUNTY agrees to pay CONTRACTOR and CONTRACTOR agrees to receive compensation for each Job Order in accordance with the CONTRACTOR's Adjustment Factors stated on the Bid Schedule set forth in CONTRACTOR'S Response to Request for Quotation No. 912-5097, which are as follows:

Normal Working Hours Adjustment Factor	_____
Other than Normal Working Hours Adjustment Factor	_____
Federal	_____
Normal Working Hours Adjustment Factor	_____
Federal	_____
Other than Normal Working Hours Adjustment Factor	_____

The Minimum Contract Value is \$25,000 (twenty-five thousand dollars). The CONTRACTOR will receive the opportunity to perform Job Orders totaling a minimum of \$25,000 during the Contract term.

The Maximum Contract Value is \$2,000,000 (one million dollars). The Maximum Contract Value may be increased by up to the sum authorized by Public Contract Code Section 20128.5 (currently approximately \$4,500,000). Any increase in the Maximum Contract Value will be by mutual agreement.

At no time may the sum of the outstanding Job Orders exceed the amount of the Payment Bond and Performance Bond. A Job Order is outstanding until the COUNTY has accepted the work described in the

Job Order by execution of a Notice of Completion. CONTRACTOR will not be issued Job Orders which in total exceed the Maximum Contract Value. The COUNTY does not guarantee the CONTRACTOR will receive Job Orders totaling the Maximum Contract Value.

CONTRACTOR shall submit monthly invoices per Job Order in triplicate to the County of Fresno, Facility Services.

In no event shall services performed under this Agreement be in excess of the Maximum Contract Value during the term of this Agreement. It is understood that all expenses incidental to CONTRACTOR'S performance of services under this Agreement shall be borne by CONTRACTOR.

#### VI. LIQUIDATED DAMAGES:

It is understood and agreed by both parties to the Contract that in case all the Work specified or indicated in the Contract Documents is not completed within the specified time frames set forth in the Job Order, or within such time limits as extended, damages will be sustained by the COUNTY in the event of and by reason of such delay. It is, and will be, impractical and extremely difficult to determine the actual damage which the COUNTY will sustain by reason of the delay. It is therefore agreed that the CONTRACTOR will pay, at a minimum, to the COUNTY the sum of money stipulated per day in the Job Order for each day's delay in completing the work beyond the time prescribed.

Application of Liquidated Damages and the value of liquidated damages will be determined by the County on a Job Order by Job Order basis. Each Job Order will state whether Liquidated Damages will be applied.

COUNTY may withhold Liquidated Damages from payments to the CONTRACTOR as such damages accrue, or, at COUNTY's discretion, withhold Liquidated Damages from any payments due or that become due pursuant to the Contract, including Retention and final

1 payment (pursuant to California Government Code §53069.85). A credit Job Order shall be  
2 executed to assess liquidated damages.

3  
4 VII. INDEPENDENT CONTRACTOR:

5 In performance of the work, duties and obligations assumed by CONTRACTOR under this  
6 Agreement, it is mutually understood and agreed that CONTRACTOR, including any and all of the  
7 CONTRACTOR'S officers, agents, employees and subcontractors will at all times be acting and  
8 performing as an independent contractor, and shall act in an independent capacity and not as an officer,  
9 agent, servant, employee, joint venturer, partner, or associate of the COUNTY. Furthermore, COUNTY  
10 shall have no right to control or supervise or direct the manner or method by which CONTRACTOR shall  
11 perform its work and function. However, COUNTY shall retain the right to administer this Agreement so  
12 as to verify that CONTRACTOR is performing its obligations in accordance with the terms and conditions  
13 thereof.

14 CONTRACTOR and COUNTY shall comply with all applicable provisions of law and the  
15 rules and regulations, if any, of governmental authorities having jurisdiction over matters the  
16 subject thereof.

17 Because of its status as an independent contractor, CONTRACTOR shall have absolutely  
18 no right to employment rights and benefits available to COUNTY employees. CONTRACTOR  
19 shall be solely liable and responsible for providing to, or on behalf of, its employees all  
20 legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and  
21 save COUNTY harmless from all matters relating to payment of CONTRACTOR'S employees,  
22 including compliance with Social Security withholding and all other regulations governing such  
23 matters. It is acknowledged that during the term of this Agreement, CONTRACTOR may be  
24 providing services to others unrelated to the COUNTY or to this Agreement.

VIII. MODIFICATION:

Any matters of this Agreement may be modified from time to time by the written consent of all the parties without, in any way, affecting the remainder.

IX. DISCREPANCIES:

Should the CONTRACTOR, at any time, discover a mistake in any of the Contract Documents or any discrepancy therein or lack of appropriate information, the CONTRACTOR shall not proceed with the work affected thereby until such correction has been made.

In resolving conflicts resulting from errors or discrepancies in any of the Contract Documents, the order of precedence shall be as follows:

- 1) Permits from other agencies as may be required by law.
- 2) Permits issued by the COUNTY.
- 3) Changes to Job Orders
- 4) Job Orders
- 5) Agreement
- 6) CONTRACTOR's Bid
- 7) Addenda
- 8) General Conditions
- 9) Technical Specifications
- 10) Construction Task Catalog<sup>®</sup>
- 11) Reference Specifications
- 12) Instruction to Bidders
- 13) Notice Inviting Bids

X. NON-ASSIGNMENT:

Neither COUNTY nor CONTRACTOR shall assign, transfer or sub-contract this Agreement nor their rights or duties under this Agreement without the prior written consent of the other party.

XI. HOLD HARMLESS:

CONTRACTOR agrees to indemnify, save, hold harmless, and at COUNTY'S request, defend the COUNTY, its officers, agents, and employees from any and all costs and expenses, damages, liabilities, claims, and losses occurring or resulting to COUNTY in connection with the performance, or failure to perform, by CONTRACTOR, its officers, agents, employees or subcontractors under this Agreement, and from any and all costs and expenses, damages, liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who may be injured or damaged by the performance, or failure to perform, of CONTRACTOR, its officers, agents, or employees under this Agreement.

XII. INSURANCE

Without limiting the COUNTY's right to obtain indemnification from CONTRACTOR or any third parties, CONTRACTOR, at its sole expense, shall maintain in full force and effect, the following insurance policies or a program of self-insurance, including but not limited to, an insurance pooling arrangement or Joint Powers Agreement (JPA) throughout the term of the Agreement:

A. Commercial General Liability

Commercial General Liability Insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence and an annual aggregate of Two Million Dollars (\$2,000,000). This policy shall be issued on a per occurrence basis. COUNTY may require specific coverages including completed operations, products liability, and contractual liability, Explosion-Collapse-Underground, fire legal liability or any other liability insurance deemed necessary because of the nature of this contract.

B. Automobile Liability

Comprehensive Automobile Liability Insurance with limits for bodily injury of not less than Two Hundred Fifty Thousand Dollars (\$250,000.00) per person, Five Hundred Thousand Dollars (\$500,000.00) per accident and for property damages of not less than Fifty Thousand Dollars (\$50,000.00), or such coverage with a combined single limit of Five Hundred Thousand Dollars (\$500,000.00). Coverage should include owned and non-owned vehicles used in connection with this Agreement.

C. Professional Liability

If CONTRACTOR employs licensed professional staff, (e.g., Ph.D., R.N., L.C.S.W., M.F.C.C.) in providing services, Professional Liability Insurance with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence, Three Million Dollars (\$3,000,000.00) annual aggregate.

D. Worker's Compensation

A policy of Worker's Compensation insurance as may be required by the California Labor Code.

CONTRACTOR shall obtain endorsements to the Commercial General Liability insurance naming 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 COUNTY, 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 COUNTY.

Within Thirty (30) days from the date CONTRACTOR signs and executes this Agreement, CONTRACTOR shall provide certificates of insurance and endorsement as stated above for all of the foregoing policies, as required herein, to the County of Fresno, (Name and Address of the official who will administer this contract), stating that such insurance coverage have been obtained and are in full force; that the County of Fresno, its officers, agents and employees will



1 not be responsible for any premiums on the policies; that such Commercial General Liability  
2 insurance names the County of Fresno, its officers, agents and employees, individually and  
3 collectively, as additional insured, but only insofar as the operations under this Agreement are  
4 concerned; that such coverage for additional insured shall apply as primary insurance and any  
5 other insurance, or self-insurance, maintained by COUNTY, its officers, agents and employees,  
6 shall be excess only and not contributing with insurance provided under CONTRACTOR's  
7 policies herein; and that this insurance shall not be cancelled or changed without a minimum of  
thirty (30) days advance, written notice given to COUNTY.

8 In the event CONTRACTOR fails to keep in effect at all times insurance coverage as  
9 herein provided, the COUNTY may, in addition to other remedies it may have, suspend or  
10 terminate this Agreement upon the occurrence of such event.

11 All policies shall be issued by admitted insurers licensed to do business in the  
12 State of California, and such insurance shall be purchased from companies possessing a current  
A.M. Best, Inc. rating of A FSC VII or better.

13 E. All-Risk Insurance On The Work  
14

15 Contractor shall procure and maintain at Contractor's sole cost and expense,  
16 Builders Risk Course of Construction insurance, including fire and vandalism coverage, covering  
17 the entire work (including any County furnished material and equipment) against loss or damage  
18 until completion and acceptance by the County. Such insurance shall be for each Job Order in  
19 an amount up to the value of each Job and endorsed for broad form property damage, breach of  
20 warranty, demolition costs, and debris removal. Deductible not exceeding 5% of the cost will be  
21 permitted. Said policy to cover Contractor, Contractor's subcontractors, the County, its agents,  
22 the awarding entity, and any Trustee, under the indenture or trust agreement securing the  
23 bonds, certificates of participation, or other evidences of indebtedness issued to finance the work  
24 contemplated herein. The value of the policy shall be in U.S. currency.

F. Bonds

Payment Bond and Performance Bonds will be in place for all Job Orders in an amount equal to the sum of any outstanding Job Orders.

CONTRACTOR shall ensure that any subcontractors or other agents used in fulfilling the terms and obligations of this Agreement shall have the same level of insurance and indemnification required of CONTRACTOR.

CONTRACTOR shall obtain endorsements to the Commercial General Liability insurance naming 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 COUNTY, 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 COUNTY.

Within Thirty (30) days from the date CONTRACTOR signs and executes this Agreement, CONTRACTOR shall provide certificates of insurance and endorsement as stated above for all of the foregoing policies, as required herein, to the County of Fresno, (in compliance with the Notices section below), stating that such insurance coverages have been obtained and are in full force; that the County of Fresno, its officers, agents and employees will not be responsible for any premiums on the policies; that such Commercial General Liability insurance names 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; that such coverage for additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained by COUNTY, its officers, agents and employees, shall be excess only

and not contributing with insurance provided under CONTRACTOR's policies herein; and that this insurance shall not be cancelled or changed without a minimum of thirty (30) days advance, written notice given to COUNTY.

In the event CONTRACTOR fails to keep in effect at all times insurance coverage as herein provided, the COUNTY may, in addition to other remedies it may have, suspend or terminate this Agreement upon the occurrence of such event.

All policies shall be with admitted insurers licensed to do business in the State of California. Insurance purchased shall be purchased from companies possessing a current A.M. Best, Inc. rating of A FSC VII or better.

XIII. AUDITS AND INSPECTIONS:

The CONTRACTOR shall at any time during business hours, and as often as the COUNTY may deem necessary, make available to the COUNTY for examination all of its records and data with respect to the matters covered by this Agreement. The CONTRACTOR shall, upon request by the COUNTY, permit the COUNTY to audit and inspect all of such records and data necessary to ensure CONTRACTOR'S compliance with the terms of this Agreement.

If this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the Auditor General for a period of three (3) years after final payment under contract (Government Code Section 8546.7).

XIV. NOTICES:

The persons and their addresses having authority to give and receive notices under this Agreement include the following:

COUNTY

CONTRACTOR

COUNTY OF FRESNO \_\_\_\_\_  
Facility Services Manager \_\_\_\_\_  
4590 E. Kings Canyon \_\_\_\_\_  
Fresno, CA 93602 \_\_\_\_\_

Any and all notices between the COUNTY and the CONTRACTOR provided for or permitted under this Agreement or by law shall be in writing and shall be deemed duly served when personally delivered to one of the parties, or in lieu of such personal services, when deposited in the United States Mail, postage prepaid, addressed to such party.

XV. GOVERNING LAW:

Venue for any action arising out of or related to, this Agreement shall only be in Fresno County, California.

The rights and obligations of the parties and all interpretation and performance of this Agreement shall be governed in all respects by the laws of the State of California.

XVI. DISCLOSURE OF SELF-DEALING TRANSACTIONS:

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

Members of the CONTRACTOR's Board of Directors shall disclose any self-dealing transactions that they are a party to while CONTRACTOR is providing goods or performing services under this agreement. A self-dealing transaction shall mean a transaction to which the CONTRACTOR is a party and in which one or more of its directors has a material financial

1 interest. Members of the Board of Directors shall disclose any self-dealing transactions that they  
2 are a party to by completing and signing a Self-Dealing Transaction Disclosure Form (Exhibit D  
3 and submitting it to the COUNTY prior to commencing with the self-dealing transaction or  
4 immediately thereafter.

5  
6 XVII. ENTIRE CONTRACT:

7 This Agreement constitutes the entire Contract between the CONTRACTOR and COUNTY with  
8 respect to the subject matter hereof and supersedes all previous Contract negotiations, proposals,  
9 commitments, writings, advertisements, publications, and understandings of any nature whatsoever unless  
10 expressly included in this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first hereinabove written.

COUNTY:  
COUNTY OF FRESNO

CONTRACTOR:  
.

By \_\_\_\_\_  
Deborah A. Poochigian  
Chairman, Board of Supervisors

By \_\_\_\_\_  
Print Name:  
Title

ATTEST: BERNICE E. SEIDEL, CLERK  
BOARD OF SUPERVISORS

By \_\_\_\_\_  
Print Name:  
Title:

BY \_\_\_\_\_  
Deputy

APPROVED AS TO LEGAL FORM:  
KEVIN B. BRIGGS, COUNTY COUNSEL

FOR ACCOUNTING USE ONLY:

By \_\_\_\_\_  
Deputy

ISD – Facility Services  
FUND: 1045  
SUBCLASS: 10000  
ORG No.: 8935  
Acct. No.: 7295

APPROVED AS TO ACCOUNTING FORM:  
VICKI CROW, C.P.A.  
AUDITOR-CONTROLLER/TREASURER-  
TAX COLLECTOR

By \_\_\_\_\_

RECOMMENDED FOR APPROVAL:

By \_\_\_\_\_  
Robert Bash, Director of Internal  
Service/Chief Information Officer  
Internal Services Department

By \_\_\_\_\_